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Political Pluralism

A STUDY IN CONTEMPORARY POLITICAL THEORY

By

KUNG CHUAN HSIAO

Ph.D., Professor of Political Science, Nankai University, Tientsin.

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PREFACE

The present study is an expansion and a thorough revision of a much briefer paper on the same subject undertaken three years ago. While a good number of excellent articles have been written upon Political Pluralism, or the Pluralistic Theory of the State—a new tendency in political thought first suggested by Dr. Otto von Gierke as early as 1868 and developed in our own day by a large number of writers—the novelty and great significance of this theory has convinced the writer that a more systematic and thorough study is justified. Should the chapters which follow succeed in elucidating, even in a very imperfect degree, the true meaning of the pluralistic theory; in explaining the real nature of the problems with which it deals; and thus also in arousing us from our monistic slumbers to the vision of a profound theory of politics, he would, indeed, consider his feeble efforts more than duly rewarded. As we shall see, pluralism has both a negative and a positive side: it protests against a theory that seems to ignore certain changed conditions in the Western political world; and it suggests a solution of the problems arising from these new political phenomena. It will, therefore, be our task to consider, on the one hand, in what sense the pluralistic criticisms of the traditional theory are sound or unsound, and wherein, on the other, the intrinsic value of pluralism as a theory of politics consists; that is, to offer a constructive criticism of this new movement in political theory.

The writer cannot here refrain from expressing his gratitude toward his many teachers and friends. To the Sage School of Philosophy at Cornell University, in general, and to Professor Frank Thilly in particular, however, he must give the greater measure of his thanks. Professor Thilly has not only taught him philosophy and its method,

but has afforded him constant encouragement and guidance in the preparation of this study. Suggestions and criticisms from Professor George E. G. Catlin, of the Department of Political Science, have proved indispensable to him. Professor Catlin has also undertaken the laborious task of reading the entire proofs.

It goes without saying that the writer himself is responsible for the many errors that may occur in this treatise and for the awkwardness in his use of the English language which, to him, is a foreign tongue. With respect to both these weaknesses the indulgence of the reader is earnestly requested.

K.C.H.

Ithaca, New York, May, 1926.

INTRODUCTION

PLURALISM undertakes to transform the State.[1] It criticises it, it " discredits " it, and seeks to reduce it from its place of honour to a place of servitude.[2] What is this state, we ask, which has given such offence to pluralism ? In theory this state, which has been characterized by its enemies as *monistic* is, to all intents and purposes, nothing less than the state to which Western political thought has devoted its attention from the days of Plato and Aristotle, who gave it its first definite form, and down to modern times when it received its further justification and development. To consider the monistic state in this comprehensive sense would demand a study of the whole history of political theory—a task that is clearly beyond our present

[1] For excellent short accounts of the pluralistic theory see E. Barker, " The Discredited State ", *Pol. Qtly.*, 2 : 101-21 ; F. W. Coker, " The Technique of the Pluralistic State ", *Am. Pol. Sc. Rev.*, 15 : 186-213 ; H. J. Laski, " The Pluralistic State ", *Phil. Rev.*, 28 : 562-75 ; G. H. Sabine, " Pluralism, a Point of View ", *Am, Pol. Sc. Rev.*, 17 : 34-50 ; Coker, " Pluralistic Theories and the Attack upon State Sovereignty ", in Merriam and Barnes (editors), *Political Theories*, pp. 80-119 ; Coker, *Recent and Contemporary Political Theory*, concluding chapter ; Ellis, " The Pluralistic State ", *Am. Pol. Sc. Rev.*, 14 : 393-407.

[2] Mr. Cole, one of the central figures in pluralism, writes : " But as man has made the State, man can destroy it ; and as man has made it great, man can again restrict it. Moreover, as man has made the State, man can make something greater, something more fitted to exercise a final sovereignty, or at least to provide a final court of appeal." *Proc. Arist. Soc.*, 15 : 157.

scope.[1] It will suffice for our purpose to give a general definition of the monistic state as the pluralists see it, and to describe the essential features of it against which they have raised objections.

As the term itself indicates, a monistic state is one which possesses, or which should possess, a single source of authority that is theoretically comprehensive and unlimited in its exercise. This unitary and absolute power is *sovereignty*, and the theory which affirms the existence of such sovereignty in the state is designated by the pluralist as *monism*.

The monistic state thus defined is a product of the modern age, both in theory and actuality. The conception of a sovereign power, in its scientific exactness, is certainly unknown to classical antiquity; even in the Roman idea of *imperium*[2] it is only embryonically contained. The Middle Ages not only never dreamed of the immensity of the power of the modern state, which did not develop until the decisive battles between the church and the state had been fought, but would have been amazed to hear the absolutist doctrine of sovereignty expounded by certain modern publicists. It was, indeed, only when the modern age had reached its full political consciousness that the writings of such celebrated monists as Bodin, Hobbes, Hegel, and Austin began to appear.[3] Monism, therefore, appears simul-

[1] See Appendix I for a partial list of some well-known monistic definitions of the State. Cf. also Laski, *Problem of Sovereignty*, pp. 1-6, for a pluralistic conception of monism.

[2] See Duguit, *Law in the Modern State* (trans. by Frida and H. J. Laski), pp. 1-10.

[3] Cf. Laski, *Foundations of Sovereignty*, pp. 233-4.

taneously with the great modern state, particularly the modern monarchies.

It would be a mistake, however, to identify the monistic state with monarchy, exclusively ; or the theory of unitary sovereignty with the idea of imperial absolutism. Political monism has a wider application than these ; and, as a theory of the state, it does not imply any specific form of government. The fact that the creation of the modern monarchies synchronized almost perfectly with the formulation of the monistic theory was, to be sure, not a pure accident. There seems to be, indeed, historical as well as theoretical reasons why monism received its first and most complete embodiment in a monarchical state, and why the monistic theory was its best justification and defence. But despite all these, monism and monarchism are not synonymous terms. For while a monarchy is necessarily a monistic state, it is not conversely true that a monistic state is always monarchical. In fact, the monistic state may be regarded as a genus of political organization to which several different species of states, including the monarchy, belong.

Perhaps an illustration may make our meaning clear. The doctrine of the divine right of kings, which served as the basis of the absolute power of the French state before the fall of the Bourbons, is a monistic doctrine through and through. In it we find a typical monistic theory realized in an extreme form of the monistic state, in which all political authority is concentrated in one ruler, one government, and one system of law. Sovereignty in the Bourbon monarchy was, therefore, undivided and indivisible, and

came very near to what Bodin describes as " the supreme power over citizens and subjects, unrestrained by laws ".[1] The destruction of the monarchy by the Revolution, however, did not bring about any change in the conception of the nature of the state. The despotic French king with his divine right was, indeed, no longer to rule. But in place of a royal sovereignty came an equally absolute one, the sovereign people. Even the old scheme of centralization, the concentration of all power in Paris, was not only retained but extended. We should not, then, be surprised at the declaration contained in the constitution of 1791 : that sovereignty is " one and indivisible, inalienable and imprescriptible "—especially when we remember that it was Rousseau who furnished the philosophy of the Revolution.[2] The theoretical results of the French Revolution are, therefore, far less startling than many of its practical consequences. It brought about a change of the form of government in France, which meant the death of despotism not only in that country but in the Western political world in general ; but it failed to effect any change of equal magnitude in the theory of the state itself. It shifted the location of political authority from one pole to another, but left the theory of sovereignty itself untouched. Thus the Revolution marks not the end of monism, but merely the transition from an imperial monism into a democratic one.

From the above it is clear that the monistic theory of

[1] " Maiestas est summa in cives ac subditos legibus soluta potestas." *De republica*, i, ch. 8.

[2] Article ii, of the Constitution of 1791. See Rousseau, *Social Contract*, especially ii, chs. 1-2 : " Sovereignty is Inalienable " and " Sovereignty is Indivisible ".

state is practically identical, or at least closely connected, with the theory of sovereignty, whether the latter be conceived on an imperial or popular basis.[1] The theory of sovereignty, however, may assume a more specific and technical form. In the hands of certain modern jurists the state appears to be essentially the possessor of a legal sovereignty which binds and orders the entire community. Law, so the juristic conception reasons, is the command of the State-sovereign, which is a juristic person. And precisely because sovereignty is the source of this legal command, it must itself be unified and absolute.[2] Theoretically, therefore, the juristic conception of sovereignty sets up an ideal of the legal supremacy of the state over all its internal relations, and avoids the difficulty of a limited legal power, which would otherwise ensue.[3]

An actual example of a monistic state in which juristic sovereignty exists is not far to seek. We need only go to Great Britain with its sovereign Parliament. As far back as immediately after the Revolution of 1688, Parliament had already taken its first definite step in the long course of development toward its status of unquestioned supremacy, which the efforts of Bentham later contributed much to establish.[4] During the last decades of the seventeenth

[1] It must be noted that the theory of popular sovereignty as conceived by Marsiglio is, unmistakably, a monistic theory. See *Defensor pacis*, i, chs. 4-15.

[2] Sabine, Introduction to Krabbe, *Modern Idea of the State*, pp. xviii ff; Bodin, *De republica*, p. 137; Hobbes, *Leviathan*, ii, ch. 26.

[3] Ritchie, *Am. Acad. Pol. Soc. Sc.*, 1: 399 ff; cf. also Bentham's well-known arguments against limitation of Parliamentary sovereignty, *Fragment on Government*, chs. 4-5.

[4] Dicey, *Law and Public Opinion in England*, pp. 304 ff.

century the judicial powers of the judge were brought under the complete rule of Parliament. For, on the one hand, all judges acknowledged the binding force of all parliamentary acts, and, on the other, Parliament itself was sufficiently powerful to coerce any recalcitrant court into submission. The English Parliament as the organ of legal sovereignty, however, had a further conquest to make. With the rise of the cabinet form of government, the supremacy of the legislative function over the executive was also assured.[1] In this way the British Parliament became the supreme law-making organ of the kingdom, the central seat of all political authority, from which all other powers are derived. Blackstone, indeed, was not greatly exaggerating matters when he said : " what the Parliament doth, no authority on earth can undo."[2]

Federalism, with its implied controversial question of the relationship between federal and state powers, as we observe in the United States, undoubtedly renders legal monism less pure and consistent than in the unified constitutional organization of England. The idea of a legal sovereignty seems, nevertheless, to be present in a federal state.[3] For while we cannot regard the relation between the federal and state authorities in America exactly as a scheme for the delegation of powers from a central source,

[1] Sabine, " Pluralism, A Point of View ", *Am. Pol. Sc. Rev.*, 17 : 45.

[2] Quoted by Pollock, *History of the Science of Politics*, p. 81 ; cf. quotation on p. 54 from Sir Thomas Smith : " all that ever the people of Rome might do . . . the same may be done by the Parliament of England ; which representeth and hath power of the whole realm, both the head and the body."

[3] Cf. our discussions of constitutionalism, below, ch. 2.

we must at least recognize the federal constitution, which is written and " rigid ",[1] as a final authority to fix the legal competence of the member-states and of the various powers of the federal government. The power of judicial review possessed by the Supreme Court proves adequately the supremacy of the constitution over the legislative function ; and, on the other hand, every decision rendered by the Supreme Court on questions of conflict between state and federal law is a confirmation of the sovereign character of the federal constitution.[2] Federalism and monism, therefore, are not incompatible terms.

To sum up : a monistic state is one which possesses a unitary and absolute sovereign power, either as the direct source of all political authority as such or as the source of legal authority. In its simplest and most typical form this sovereignty is exercised by a single instrument and flows from a single person, as in a monarchical state, in which the will of one ruler is supreme. But it may also take the form of democracies and federal states where the exercise of sovereignty is more or less divided between different instruments, in so far as the source of sovereign power itself is still regarded as unitary, namely, as residing in the body politic acting through the General Will, or, more definitely, as embodied in a written constitution which is really a General Will articulated in a permanent legal form.

It is against such a state that pluralism has raised its voice of protest. The pluralistic state, as we may reasonably expect, is intended to be its direct antithesis. In

[1] Bryce's word : see *Studies in History and Jurisprudence*, ch. 1.
[2] Cf. Austin, *Jurisprudence*, i, lect. 4.

defining the monistic state, therefore, we have also incidentally defined the pluralistic state in a negative way. The pluralistic state is simply a state in which there exists no single source of authority that is all-competent and comprehensive, namely, sovereignty, no unified system of law, no centralized organ of administration, no generalization of political will. On the contrary, it is a multiplicity in its essence and manifestation, it is divisible into parts and should be divided. How far the pluralistic writers succeed in developing a theory of this state, and to what extent their theory is a valid criticism of the monistic theory it is the purpose of the following chapters to show.

CHAPTER I

PLURALISM AND LAW

(*A*) *Legal Theory*

(1) The Relation between Legal Authority and Political Sovereignty

POLITICAL theory, in its legal aspect has, since the time of Aristotle, presented itself as a persistent problem of the relationship between legal authority and political sovereignty, or between law and the state. The various historical solutions offered seem to group themselves into two opposite camps : either law is placed above the state or the state is conceived as superior to law ; the former view represents the antique-mediaeval theory, the latter is typical of the modern age.

" He who bids the law rule ", Aristotle says, " may be deemed to bid God and Reason rule ".[1] For law, being the distinct expression of human rationality is " passionless reason ", and hence is fitted to be not only the supreme authority in society but the sole criterion by which the legitimacy of any government is to be judged. The classical Greek conception of political life as summed up by Aristotle, therefore, is eminently legal, as it is ethical.

[1] *Politics* (Jowett), iii, ch. ii, § 19 ; cf. ch. 16, §§ 5, 10, 11, 12.

Similarly, mediaeval theorists, so Dr Gierke tells us,[1] were very fond of the notion of *Rechtsstaat*, which comprehends the state not as an end in itself but as existing merely in law and for law. The state, they thought, could find its justification only in its mission to realize the principle of justice ; and, consequently, as a legal instrument, its powers were legally limited.[2]

This conception of legal supremacy over the state, as held by Aristotle and the mediaeval theorists, however, it must be noted, is based upon a very broad conception of law, more or less unfamiliar to certain modern jurists. For Aristotle law is not merely that which is decreed by the state, but the system of rational order co-extensive and identical with human reason. It is, in fact, the objective manifestation of moral rule in the social realm. Now since the state as actual political power is never near the level of perfection, it is obvious that the state should acknowledge its inferiority to the ideal of law. The mediaeval conception of law, also, is shot through with ethical as well as religious ideals. Aquinas's four-fold classification of law seems to be typical. It is by the conception of " natural law ", which itself is a manifestation of " eternal law ", that the mediaeval writers easily establish their argument for a " reign of law " ; since, they point out, law was given to men prior to the institution of an earthly

[1] *Political Theories of the Middle Age* (Maitland), pp. 73 ff ; cf. Krabbe, *Modern Idea of the State* (Sabine and Sheppard), pp. 30 ff ; Saunder, *Staat und Recht*, i, pp. 423 ff ; Bonard, " La conception juridique de l'état ", *Revue de droit public*, Jan-Mar., 1922.

[2] See Aquinas, *Summa Theologica* (English trans.), ii, 1, q. 91, art. 2 ; q. 94, art. 1-6 ; q. 97, art. 1 ; ii, q. 57, art. 2.

power and thus possessed an authority over all persons in a pre-political state of society, the state with its "human" or positive law must be subordinated to legal authority.[1]

As soon as the state gained in material power and self-consciousness, however, the mediaeval theorists began to see that it was necessary to reconcile political supremacy with legal supremacy. The traditional sharp distinction between natural law and positive law provided a ready solution, and it was, as a matter of fact, utilized with great advantage. Positive law, it was held, whether it be declared by will of the prince,[2] or promulgated by the sovereignty of the people[3], is plainly a creation of the political power of the state, and, as such must be regarded as below the state. It is natural law alone which is independent of, that is, above, the action of the state.[4]

In the mediaeval conception of positive law as inferior to political sovereignty, therefore, we find the early transition from the antique-mediaeval solution of the problem of the relation between law and the state to the modern. It is from this conception, freed from the traditional ethical

[1] Aquinas, *Summa Theologica*, ii, 1. q. 90-92; q. 94, art. 1-6; ii, 2, q. 157, art. 2; cf. Grotius, *De jure belli ac pacis*, i, ch. 1, §§ 10, 12; Bryce, *Studies in Jurisprudence*, pp. 556-606 ff.

[2] Aquinas writes: Law is "an ordinance of reason for the common good, promulgated by him who has the care of a community", *Op. cit.*, ii, 1, q. 90, art. 4; cf. the familiar assertion, "quod Principi placuit legis habet vigorem", quoted by Gierke, *op. cit*, p. 77.

[3] "According to truth and the opinion of Aristotle, the legislator, that is, the effective and peculiar creator of law, is the people." (Marsiglio, *Defensor pacis*, i, ch. 12).

[4] "Positiva lex est infra principatum sicut lex naturalis est supra." Aegidius Romanus, *De regimine principum*, iii, 2, ch. 29.

and religious entanglements, that the theory of juristic sovereignty, as espoused by Bodin[1], Hobbes[2], Rousseau[3], and Austin[4], takes its development. Law, so the modern theory holds, is the command of a sovereign will which, as legal creator, must itself be supreme and absolute in authority.[5] This absolute character of sovereignty is theoretically imperative: since sovereignty has been assumed to be the ultimate source of legal authority, it cannot be legally limited without involving a logical infinite regress.[6] Moreover, in so far as the sovereign will is regarded as the ultimate source of law, it must also be regarded as its *only* source. For if the sovereign will itself is divisible into contending parts, it immediately loses the character of finality. The particular manner in which this sovereign will is manifested is a matter of little importance here. We may accept Bodin's view that "a prince may abrogate, modify, or replace a law made by himself and without the consent of his subjects";[7] or Rousseau's that the general will is the real basis of political power;[8] or even the doctrine of constitutional checks and balances as we find it in the United States, which seeks to distribute actual political power between several constitutional instruments; but in any case we must acknow-

[1] "Law depends upon the will of him who holds supreme authority in the state." *De republica*, i, ch. 8.

[2] "Civil law is to every subject those rules which the Commonwealth hath commanded him, by word, writing, or other sufficient sign of the will." *Leviathan*, ii, ch. 26.

[3] *Social Contract*, ii, ch. 6. [4] *Jurisprudence*, Lects., 1, 6.

[5] "Sovereignty is supreme power over citizens and subjects, unrestrained by law." Bodin, *op. cit*, i, ch. 8.

[6] Ritchie, Am. Acad. Pol. Soc. Sc., 1: 399. [7] *Op. cit.*, i, ch. 8.

[8] *Social Contract*, ii, chs. 22, 23, 32.

ledge that theoretical consistency demands the notion of sovereignty, and that sovereignty, as a legal principle, is necessarily indivisible and unified.

Such, then, is the modern juristic theory of sovereignty which has supplanted the old conception of the " reign of law ". It is a legal monism, so to speak, which serves to give a legal foundation to the monistic state, and against which the pluralistic jurists of our day have raised their protest. Naturally, therefore, we find a serious attempt to revive the long-dormant idea of the *Rechtsstaat* in the pluralistic jurisprudence of M. Leon Duguit in France and Dr Hugo Krabbe in Holland, whose views we shall presently examine in detail. Political pluralism, in this light, is the antique-mediaeval legal spirit seeking to regain its place in modern theory.

M. Duguit's legal theory demands our first attention[1]. Starting from the principle (or " fact " as he himself prefers to say) of " social solidarity "[2] that society is a system of relations springing out of the nature and needs of human life, he proceeds to show that these relations spontaneously create a body of rules which, when observed,

[1] For M. Duguit's principal works, see Bibliography; for short expositions and criticisms, see Elliott, " The Metaphysics of Duguit's Pragmatic Conception of Law ", *Pol. Sc. Qtly.*, 37: 639-45; Brown, " The Jurisprudence of M. Duguit ", *Law Qtly. Rev.*, 32: 168-83; Mathews, " A Recent Development in Political Theory ", *Pol. Sc. Qtly.*, 24: 284-95; Merriam and Barnes (editors) *Political Theories*, pp. 101-9; Davy, *Le droit, l'individu et l'expérience ;* Krabbe, *op. cit.*, pp. lii-lvii; 201 ff; 205 ff; J. Charmont, *La renaissance du droit naturel* (Mrs F. W. Scott and J. P. Chamberlain), pp. 82-96; 125-32. Mr and Mrs Laski's translations from *Transformation du droit public* in *Law in the Modern State* will prove helpful in introducing the reader to M. Duguit's rather difficult jurisprudence.

[2] *Traité du droit public*, p. 27.

secure for the community a maximum of welfare. Law (*droit*), therefore, is not force. It is binding upon all, not because it is decreed by the sovereign will of a ruler (for it is not), but because it is necessary for the attainment of social solidarity, and because it flows from the psychological fact of solidarity in the mind of the modern social-individual.[1] The rule of a community, consequently, is not a rule of force, but a rule of law ; the state, as political force, is a legal instrument, as the mediaeval theorists would say, which exists in and for law.[2] It does not command, but humbly serves. Sovereignty, in short, there is none ; the state does not possess it, for the state exercises its power not absolutely, but in co-ordination with other social institutions.[3] Such, then, is M. Duguit's pluralistic jurisprudence stated in general terms. Let us now examine his theory more carefully at three important points, viz : (1) his criticism of the traditional juristic theory of sovereignty ; (2) his assertion that law is and should be a pluralistic system ; and (3) his conception of the rule of law (*régle de droit*) as a revival of the *Rechtsstaat* idea.

M. Duguit's criticism of the theory of sovereignty seems to follow from a sharp distinction between political power and legal authority, the latter being independent of and more ultimate than the former. Political power as such, for him, is merely a fact unconnected with any legal value ; and far from being its creator, the state must subject itself to law. " The state," he says, " is founded upon force, but this force is lawful when it is exercised in accord-

[1] *Ibid.*, pp. 44 ff ; 77 ff. [2] *Ibid.*, p. 81.
[3] *L'état, les gouvernants, et les agents*, pp. 65 ff.

ance with law".[1] We must always remember, however, what M. Duguit means by "law" here is not the law as decreed by the state (positive law, *loi positive*), but the law as rules of social relations (objective sociological law, *droit objectif*), something like the "natural law" of the mediaeval jurists.[2] If this is true, it would appear that M. Duguit's criticism of sovereignty is not altogether logically cogent, particularly when we apply it to a theory such as that of Bodin, who admits that both the prince and the people are bound by the law of nature and of God, although the prince, as the creator of positive law, is legally supreme.[3] "No one," M. Duguit writes, "has the right to command others; neither an emperor, nor a king, nor a parliament; nor is a popular majority able to impose its will as such."[4] If this is meant to be a refutation of the theory of sovereignty as applied to the realm of positive law, M. Duguit's failure to grasp the meaning of legal sovereignty is too obvious to need elaboration. A parliament has the right to command (namely, to make positive law) precisely because it is parliament; that is, because it is an instituted legal authority. On the other hand, there can be no positive law prior to the establishment of such an authority, which is tantamount to saying that the existence of a legal system presupposes the existence of a legal sovereignty. Positive law, of course, must not run counter to the fundamental notions of right, whether ethically, religiously, or sociologically interpreted; it may, in fact,

[1] *Traité*, pp. 37, 41. [2] M. Duguit himself recognizes this distinction, see *L'état, le droit objectif et la loi positive*, pp. 1-19; 613-8.
[3] *Op. cit.*, i, ch. 8. [4] *Traité*, p. 41.

be regarded as flowing directly from natural law. But it differs from natural law essentially in this that it is formally enacted by the state.[1] This, we think, is the real meaning of the monistic theory of sovereignty. Jurisprudence as a science deals with the realm of positive law alone; it leaves the metaphysical or ethical foundation of the state and law to the speculation of the philosophers. That there is a rule of right, *un droit objectif*, a law of nature, etc., which is more ultimate than statute law the lawyers, as lawyers, usually acknowledge but are not concerned either to prove or deny. How can we, then, expect a jurist to listen to us, if we tell him, as M. Duguit apparently does, that his theory of sovereignty is false because there is a natural law, a *droit objectif*, which the state does not and cannot make?

To be fair to M. Duguit we must, of course, admit that the "analytical school" of jurisprudence, which is largely responsible for the modern form of the sovereignty-theory, has been too narrowly "scientific" to be satisfactory.[2] On the other hand, we must not suppose that a flat denial of legal sovereignty will yield anything like a sound theory of politics, as M. Duguit seems to think. He fails to see with Bentham that whether we accept "utility" or "social solidarity" as our ultimate explanation of law, we cannot escape the necessity of a definitely instituted superior legal

[1] Aquinas points out that the formal binding force of law depends upon its promulgation by the person who has charge of the community; *Summa Theologica*, ii, q. 90, art. 4.

[2] Cf. T. H. Green, *Works*, ii, p. 404; see also W. J. Brown's criticism of the Austinian theory, *The Austinian Theory of Law*, especially pp. 331-54. Dr Brown himself is a liberal follower of Austin.

authority in the community which shall translate the general rules of nature into a definite system of political rule.[1] For if, as M. Duguit insists, there is to be no rightful law-making power in the community, we must either leave that power to everybody, which means legal anarchism, or else cease speaking of law (*loi*) and return to a pre-political condition of society in which customs and moral sanctions alone rule. There and there only, it seems, can we really dispense with the notion of juristic sovereignty.

Let us now take up our second point and see whether M. Duguit is more successful in substantiating his assertation that law is and should be not a unity but a pluralistic order. Of his criticism of the idea of legal unity we need not here speak. It suffices to examine the three tendencies in modern society, which he mentions as proofs of the inevitability of legal decentralization.[2] In the first place, he asks us to study the legal system in a federal country, especially in the United States, where the power of law-making and enforcement is divided between the state and national governments. The fact that state and federal laws may in cases conflict would seem to show that a legal

[1] *Fragment on Government*, ch. 4. It may be noted that Hobbes, reputed to be one of the most consistent monists, admits the limitation of political law by the laws of nature. This limitation, however, is practical but not legal. The prince or sovereign may rule despotically, namely, contrary to the laws of nature at the risk of his own ultimate overthrow; his commands, nevertheless, possess an authority which is theoretically unconditional, see *Leviathan*, chs. 17, 18. 32; cf. our discussion below, ch. ix. Gierke points out that certain mediaeval theorists even recognized the possibility of limiting divine law by political sovereignty; *op. cit.*, pp. 175-6, note 261.

[2] See Appendix ii for an account of legal pluralism as it actually existed in the Middle Ages.

pluralism really exists in the United States. Secondly, he points out that in countries where public services are autonomous, each service has become a distinct juristic organ, virtually independent and self-sufficient. It makes its own laws, regulates its own internal relations, and expects its members to obey its decrees without condition, attaching, in many instances, a penalty to disobedience and violation.[1] Here, M. Duguit thinks, is a legal pluralism realized in a scheme of decentralization of law-making by a multiplicity of governmental bodies. Thirdly and lastly, he calls attention to the development of the syndicalist movement which seeks to put the question of the nature of the statutes of associations on a new basis. Hitherto the statutes of an association have been regarded merely as a contract between its members, who, theoretically, are free to make or break it. The fact of social solidarity, however, is undeniable, and the acknowledgement of it would compel us to recognize such statutes not as mere contracts but as real organic laws, binding by their own inherent force.[2] Here, again, according to M. Duguit, we are on the way to legal pluralism.

Pending a discussion of the question of the relation between state and federal law, let us here suggest that what M. Duguit calls legal decentralization is not a real legal pluralism at all. In the first place, we may admit that autonomy of legal power with respect to the internal affairs of public services actually exists and is desirable. Yet we cannot deny that no matter how autonomous a

[1] *Transformation du droit public*, pp. 114-5.
[2] *Transformation*, p. 123.

service is, it must finally be responsible to some central authority for the accomplishment of the service placed in its charge ; and, consequently, the " laws " which it makes with respect to its internal affairs must be regarded not as inherently binding, but as deriving their force from the authority to which the service itself is responsible. For it is perfectly conceivable that society may at any time abolish a public service because it is poorly performed or because it has become obsolete and unnecessary ; and that with its abolition the whole system of its internal " laws " must lose their authority. The case of the statutes of associations is only a little more complicated than this, but may be similarly treated. Granting to M. Duguit that it is possible to regard association-regulations, not as a free contract between individuals, but as " laws " binding upon the persons concerned, we may still doubt that their obligatory character is absolute. Evidently, when they chance to come into conflict with the general laws of the community, they must give way ; and in so far as they are sanctioned on the principle of social solidarity, they must ultimately be part and parcel of the one single " rule of law " obtaining in the community. Viewed in this light, therefore, what M. Duguit supposes to be legal pluralism is no more than a scheme of law-making (loosely speaking) at different places in society, which scheme does not touch the ultimate source of legal authority at all.

M. Duguit, however, has a more theoretical argument which we must consider ; the argument, namely, that since society is an organization of a multiplicity of interests and purposes there must also be a multiplicity of legal

systems in order to give full expression to them. Such a view, indeed, is plausible and by no means entirely new; Montesquieu long ago advanced it in his celebrated *Spirit of Laws*.[1] Yet even allowing all that is implied in this view, it is not certain that this line of argument must inevitably lead to pluralism. For no matter how far we decentralize our social organization, no matter into how many departments we divide our social life, and no matter, consequently, how many centres of law-making we establish, so long as we uphold social solidarity as the all-competent principle of political organization, all these pluralities must finally be ordered and unified by this principle into an absolute system. Social solidarity, in other words, is a new all-devouring mortal God on earth to whom groups and individuals must offer their sacrifice.[2] M. Duguit, we think, fails to establish a genuine legal pluralism; in particularizing the state, he merely substitutes a social monism for political absolutism.

Our third and last question is whether M. Duguit's sociological jurisprudence is successful in reviving the old *Rechtsstaat* idea, in opposition to the idea of state-sovereignty. M. Duguit, we recall, lays especial emphasis upon the argument that since all fundamental law is

[1] "The relations of social life are divided into different categories, each requiring a distinct body of rules of legislation. . . . The climax of rational achievement by man is the assignment of every subject of legislation to its proper class." English translation by Nugent and Prichard, xxvi, ch. 1.

[2] Mr Laski writes: "The social contract is no longer in high place; but those who bow the knee to the fashionable hypothesis of social solidarity half-consciously offer it its old-time worship." *Foundations of Sovereignty*, p. 209. Mr Laski himself is an advocate of pluralistic views, whose writings we shall have frequent occasion to examine.

directly traceable to the principle of social solidarity, there is no institution in the community, including the state, which has a right to impose legal authority upon individuals.[1] On the other hand, he points out that, as a matter of fact, the wills of the strong have always been politically dominant, so that while no body has a right to make laws, laws are actually made to express the opinions and interests of the powerful elements.[2] In other words, if we interpret M. Duguit correctly, what he wishes to show here is that the power of law-making is not possessed by one who should, but by those who can. Such a doctrine, however, if true, is obviously dangerous. For unless we are bold enough to make the sweeping assumption that the wills of the strong are always in accord with the principle of solidarity, that their decrees always coincide with the rule of law, nothing can save us from justifying the tyranny of the majority, or the despotism of superior force. While we are not prepared to assert that such is M. Duguit's intention, we must confess that we cannot discover how a clear distinction between a *de jure* and a *de facto* power can be consistently made in his theory.

We are not saying, of course, that the traditional theory of law is free from practical difficulties. In so far, however, as it regards state-sovereignty as the constituted legal authority of the community[3] from which all legal standards are derived, the problem of law assumes an entirely different form from that given to it by Duguit. The case is especially clear in a state where there is a written constitution as the definite source of legal authority. The lawfulness of governmental

[1] *Traité*, p. 41. [2] *Ibid.*, p. 37. [3] See Krabbe, *Mod. Idea of the State*, p. 206.

acts is tested by their constitutionality; and political power, as a fact, cannot ordinarily be confused with the *de jure* legal authority of the state. Here the distinction between state and government is important. Government, as power exercised at any given time by the politically influential, is undoubtedly itself not directly connected with law; government may at times even commit acts which are *ultra vires*. When we come to the state itself, however, it is really audacious for us to raise the question of lawfulness. Theoretically, a state is always an expression, however imperfect, of human social reason, and, as such, must be "lawful", in the sense of conforming to natural law, or, in M. Duguit's language, to objective right. Legally, too, it must be lawful; since all positive law is state creation, the creator itself cannot be unlawful or devoid of legal right. Indeed, it is idle for political theorists to inquire into the *legality* of the state itself. Logically we must regard the state (or call it by some other name) itself as the ultimate ground of all legal relations, and we shall face a regress to infinity if we try to find a legal justification, say of the constitution of the United States. The mistake of M. Duguit, therefore, lies in his failure to distinguish the state as ultimate legal authority from government as actual political power. This is really his reason for making a sharp distinction between legal and political authority, and for exalting the former. In so far, however, as he denies the possibility of an instituted supreme legal power, leaving, consequently, legal authority to contingent *de facto* political power (no matter how this power is quantitatively distributed) his exaltation of law is more illusory

than real. For, as we have just seen, it is political power that invariably gains the upper hand. Our conclusion, then, is: a modern theory of *Rechtsstaat* or reign of law cannot be built upon a denial of juristic sovereignty.

The legal theory of Dr Krabbe, like that of M. Duguit, is intended to be a revival of the legal state in a new form. The problem of the relationship between law and political sovereignty, therefore, constitutes the starting point of his jurisprudence. He points out that although these two sources of authority in the state were at first regarded as distinct, they were gradually amalgamated through a series of political changes in the eighteenth century, finally resulting in the supremacy of sovereignty.[1] On the other hand, the tendency for a time had been toward the extension of the authority of public law into the field of common-law through the increased concern of the sovereign with the diverse interests of the community. Thus the enforcement and the maintenance of the law of the people by the sovereign prepared the way to the recognition that the binding force of all laws lies in the sovereign will alone. The conception of law as the expression of reason, on the other hand, produced a similar result. For it was held that since reason was much more likely to be found in the many than in the few, it was but natural to conclude that the many should ultimately possess the power and right of law-making. With the general acceptance of the theory of popular sovereignty, therefore, the identification of public and people's law was completed. *Vox populi, vox Dei:*

[1] *Op. cit.*, pp. 4-6, 16-30.

this is the formula through which the final triumph of political power over law was brought about.

The modern idea of the state which Dr Krabbe advocates would jeopardize this victory by turning the tide of the battle. The modern state will be a *Rechtsstaat* built upon a new idea of law which is not based on will, but on the spiritual force of man, that is, on the individual's sense of right (*Rechtsbewusstsein*).[1] In order to give a real supremacy to law, legal authority and political power must again be separated; the modern state, consequently, will possess a twofold character: the state as a *community of interests* and as a *legal community*.

In the community of interests, Dr Krabbe teaches, the individual is conscious of a multitude of social interests which are necessary to the satisfaction of his material and spiritual life. Law, in this realm, is concerned primarily with the protection and securing of these interests, and the problem of legislation is, therefore, the proper co-ordination of them, especially in case they conflict. The problem of social co-relation is, of course, a delicate one. For this reason, legislators have frequently sought to place law-making on a basis of disinterested impartiality, an attitude, namely, of strict neutrality. Neutrality, however, is to Dr Krabbe a very inadequate method of solving interest-conflicts. For while uncontrolled passion and extreme egoism necessarily lead us into endless warfare, indifference and ignorance with respect to true social interests can yield

[1] *Op. cit.*, pp. 41-6.

no satisfying social policy.[1] The true solution lies, rather, in a radical legal reorganization with a view to give each and every one of the legitimate social interests in the community a proper and adequate channel of expression. This reorganization is characterized by Krabbe as *legal decentralization*, by which a plurality of legal authorities may be created.[2] The decentralization of law-making, however, must not be understood merely in terms of territorial divisions. The lines of demarcation of spheres

[1] Dr Krabbe's own words here are so significant that we think it worth while to quote them in full: "To be sure", he writes, "the more completely the legislator is withdrawn from the sphere of influence of these interests, the more impartial he will be; but so much the less will he be able to judge rightly of their importance because of his lack of knowledge. And, on the contrary, the nearer he stands to those interests, the better he will understand their nature and significance, but the less he will be able to maintain his impartiality. A thorough-going impartiality would result in a stoical indifference to social interests; politics based upon interests and lacking a sober impartiality would issue in revolutionary passion. Therefore we can neither separate the two requirements nor attribute to one a greater weight than to the other. . . . The representatives of the people primarily, but also the voters, must possess the power of raising themselves to a level of objectivity where the value of interests opposed to their own is clearly apparent. . . . By means of law we desire to secure the rulership of a spiritual power, not of an authority supporting itself upon compulsion The watchword for democracy, therefore, lies in strengthening the moral capacity of the mass of the people" *Op. cit*, p. 165.

[2] "The decentralization of law-making," Dr Krabbe says, "may be advocated from three points of view. Decentralization may be necessary in order to put law-making more into the hands of those who know the social conditions in which the law is to function. Again, it may be necessary in order to curb the increasing sense of power of existing organized interests (*Interessengemeinschaften*) by transforming them into legal communities (*Rechtsgemeinschaften*), i.e., associations whose internal relations are governed by laws of their own making. Finally, decentralization may be needed because the people's sense of right may have inadequate organs and therefore its operation may be so impaired that the written law falls into arrears." *Op. cit.*, p. 164.

between the various legal autonomies must coincide with the boundaries of the spheres of associations for specific purposes (*Zweckverbände*), so that legal decentralization is "functional"—to use a favourite pluralistic term. Conflicts of social interests, consequently, will be solved by a process of mutual adjustment between representatives of the parties concerned, instead of by persons who are more or less unacquainted with the real nature of the claims in question.[1]

The "transformation of organized interests into legal communities", then, is the essence of Krabbe's pluralistic jurisprudence. This transformation will not only create adequate channels for the individual to articulate his divergent social interests distinctly and properly, but provides a safeguard against the danger of class-war between the different interest-circles, since the idea of legal community ultimately does away with the old notion of force as the basis of social organization.[2] Moreover, with the abolition of the notion of power from political theory, the notion of sovereignty must also be rejected, which, in fact, is merely the notion of power in disguise. For, Krabbe

[1] *Op. cit.*, pp. 168 ff.

[2] Krabbe wisely points out that no stable social organization is possible unless the destructive sense of power, which lies behind all doctrines of class-war, is definitely uprooted. "This can be done, however," he says, "only if the interested parties are themselves called upon to co-operate in making the law they live under, instead of receiving their law from above. In fact the mere recognition of the right to combine stops half-way in the process of organization, because it stops short of the transformation of these combinations into legal communities—that is, associations in which the contending social forces are brought together to make laws to regulate the interests which divide them. The lack of such associations give a great impetus to the sense of power and does a corresponding injury to the sense of right." *Ibid.*, p. 170.

argues, " the law which has for its purpose the control of human will, cannot derive its binding force from that will. The harmony which this view was said to establish is not one between the individual's sense of right and the content of the rule, but a harmony between his will and that of the rule. Thus the law loses its normative character; it completely forfeits its objectivity and stands in conflict with reality."[1] Furthermore, the traditional theory of sovereignty falsely assumes political power as the ultimate source of law; it fails to reach the real ground of legal authority. " Constraint ", he says, " is justified by the necessity of maintaining the law, but it can never bestow legal quality upon a rule which lacks it. Mere force, whether organized as in the state or unorganized as in an insurrection or revolution, can never give to a rule that *ethical* element which belongs essentially to a rule of law. On the contrary, constraint can gain an ethical quality only when used in the service of law. Thus the rule must have the definite character of law and it can derive this only from the feeling or sense of right which is rooted by nature in the human mind."[2]

Thus stated, Dr Krabbe's criticism of the theory of sovereignty is as substantial as it is suggestive. We must not, however, be too hasty in convincing ourselves that it is a death blow to sovereignty. For to trace the source of legal authority to the depth of the human consciousness of ethical right means only to go a step further than the juristic sovereignty theorists have gone; the sense of right and sovereignty are not logically incompatible terms, in

[1] *Op. cit.*, pp 8-9. [2] *Ibid.*, p. 48.

so far as sovereignty is conceived as the instituted power of law-making, which is formally supreme but substantially conditioned. Here the position of Dr Krabbe is not unlike that of M. Duguit. Both seek to prove that law is more than the decrees of government or parliament; and that, consequently, legal authority is superior to the authority possessed by the government. But this truth, as we saw, is also admitted, or at least undisputed, by the monistic jurists, especially by writers like Bodin and Bentham. Even, in fact, the jurists of the "analytical school" are logically safe from the admirable criticisms of Dr Krabbe, in so far as they limit their discussions to the law (*loi, Gesetz*) as enacted by the state and leave other "laws" (justice, *droit, Recht*) to the philosophers and sociologists.

On the other hand, we are prepared to assert that if we take Krabbe's notion of the sense of right seriously, our logical issue is not pluralism, but a legal monism of the most thorough-going sort. The "community of interests", as Krabbe himself shows, is a multiplicity of divergent purposes and organizations, which in themselves do not provide any principle of harmonious co-relation. A super-interest principle of co-ordination, therefore, is necessary, which shall "evaluate" these interests and place them in a coherent legal system.[1] To be sure, the state as "legal community" is "exclusively a regulatory power" which cannot arbitrarily impute legal values to associations. On the other hand, it is also evident that no association can rightfully exist and continue its activity in the community

[1] *Op. cit.*, pp. 213-26; 231.

unless its purpose has received the explicit legal approval of the state. Indeed, if we understand Dr Krabbe correctly, the state would be justified in abrogating the rights granted to any association which has proved itself to be contrary to the interest of the general legal system.

The monistic tendency in Krabbe's theory, however, becomes more apparent when we examine carefully the underlying principle of the state as legal community, the principle, namely, of the individual sense of right, which suggests strongly the Rousseauan notion of the General Will. For, according to Krabbe, although the individual manifests himself in the community of interests primarily as a will desiring to attain particular ends, he must, as member of the legal community, direct his attention not to particular interests as such but to the legal system itself, that is, to the general good of the whole. The individual sense of right, in other words, when called into active play in legislation in the legal community, must itself consider not the ends of the associations, but the purpose of the state ; for otherwise it may lose itself in a battle of conflicting interests and forfeit its essentially objective normative character. The parallel between Dr Krabbe and Rousseau, indeed, may be carried still further. Law, for Krabbe, is an " evaluation of interests ", and, on that account, must itself stand above them ; law must not concern itself with partial interests as such, but regulate them with regard to the unity of the social good. Legislation in the legal community, therefore, in so far as it flows from the universal sense of right is, as Rousseau would say, general, being a decree of the whole people for the whole

people.[1] It cannot concern itself with particular interests because, according to Krabbe's scheme of legal decentralization, laws regarding particular interests are to be made by the autonomous organizations in the community of interests themselves.

With such a conception of the law and its ultimate ground, it is not surprising that Dr Krabbe recognizes[2] the majority as the working principle of popular government. If, as he says, "the unity of purpose postulates a *unity of legal value*",[3] the only way to achieve this unity is to treat each and every voter alike, namely by "assuming the sense of right to be equal in quality" in all citizens. Now since every individual, viewed in such a light, is no longer concerned with particular interests, it follows that the proper method of ascertaining their wills with respect to the common good would be to count them. The opinion of the majority, therefore, is always binding because, according to Dr Krabbe, whenever unanimity of wills does not obtain, the value of having a single rule requires all dissenting individuals to yield.[4]

[1] *Social Contract*, ii, ch. 6. [2] *Modern Idea*, pp. 75-87.

[3] *Op. cit.*, pp. 69-70.

[4] Dr Krabbe explains the obligatory character of the majority decision in these words: "for those whose convictions accord with the rule, the obligation to obey rests upon the value of the *content* of the rule; for all others it is based upon *the value of having a single rule.*" *Op. cit.*, p. 75. It is interesting to compare this passage with Rousseau's discussion of the General Will. "The constant will of all the members of the state," Rousseau says, "is the general will; by virtue of it they are citizens and free. When in the popular assembly a law is proposed, what the people is asked is not exactly whether it approves or rejects the proposal, but whether it is in conformity with the general will, which is their will. Each man, in giving his vote, states his opinion on that point; and the general will is found by counting votes. When, therefore, the opinion which is

Dr Krabbe's jurisprudence, then, is a monism and not a pluralism, as popularly supposed.[1] Dr Krabbe, indeed, seems to be perfectly willing to be a monist—and one of the most profound sort. "The way to freedom", he asserts, "lies precisely in the decrease, or perhaps the removal, of multiplicity either from within or from without" so that the community as a whole may be placed under the unified rule of the legal state.[2] Legal supremacy (or sovereignty?) there must be, only we cannot seek it in "abstractions like the state, the sovereign, the people, the legislature, parliament, or any other fictitious authority."[3] We must seek it, rather, in the depth of the individual's ethical consciousness, which supplies, objectively, both a common social end and an absolute legal criterion.

contrary to my own prevails, this proves neither more nor less than that I was mistaken, and that what I thought to be the general will was not so." *Social Contract* (Cole), iv, ch. 2. Cf. our discussion of the general will, below, ch. 7.

[1] In almost all discussions of pluralism the views of Dr Krabbe are included; see articles cited above, p. 1.

[2] *Op. cit.*, p. 74. [3] *Op cit.*, p. 176. It is worthy of note that Dr Krabbe's conception of legal community, as distinguished from the state as community of interests, curiously reminds us of the political philosophy of Hegel. Hegel's views are found in his *Philosophy of Right* (Dyde), especially pp. 185 ff.

CHAPTER II

PLURALISM AND LAW—(*continued*)

(*A*) *Legal Theory*—(*continued*)

(2) Corporate Personality

THE first shot of the pluralistic revolt was fired a little over half a century ago when Dr Otto von Gierke published his monumental but unfinished work, *Das deutsche Genossenschaftsrecht*[1], which represents the reaction of a Germanist against the Romanist tradition in the legal theory of corporations, the well-known theory of fictitious personality.

Western society has always presented a picture of manifold groups existing within the political community—a picture which was particularly vivid during the Middle Ages, when state-unity and state-sovereignty had, as yet, not been generally established. The question was naturally raised of the proper relationship between the groups and the state, that is, the legal status of the former with respect to the latter. As early as 1243 Pope Innocent IV (Sinibald Fieschi)[2] had already formulated a definite

[1] Published 1868-81, in 3 volumes. A section of the third volume (pp. 501-640) was translated into English by F. W. Maitland as *Political Theories in the Middle Age*, with an important Introduction, 1900.

[2] *Decretals* in the *Corpus iuris canonici*, and *Letters* in Raynold, *Annal Eccl.*, xiii; cited by Gierke. See, however, H. A. Smith, *The Law of Associations*, pp 152-6, where it is maintained that Innocent IV did not hold the fiction theory.

answer, which was destined to become the orthodox view not only of ecclesiastical jurists but of secular lawyers for many centuries to follow. This is the " fiction theory " of corporate personality, which, later combined with the " concession theory,"[1] declares that no groups within and below the state possess a real personality ; that corporations have no will of their own apart from the wills of the individuals who compose it ; and that, consequently, the group entity is a mere fiction, a *nomen juris*, an artificial creation of the state.[2] The group, thus viewed, becomes a mere cog in the state's gigantic juristic machine.[1]

It is against this theory that Dr Gierke raises his realist protest. He asserts that a political theory in order to be " philosophically true, scientifically sound, morally righteous, legally implicit in codes and decisions, and practically convenient ",[2] must recognize the personality of corporations, not as an artificial contrivance of the state, but as a real and spontaneous entity whose life and activity are inherent in their very existence. The state, indeed, may recognize their legal personality in order to establish their formal rights and obligations. Legal recognition, however, cannot be more than an acknowledgment of an already existent fact, the fact, namely, of group life ; it does not miraculously create something out of nothing. For if the groups are created, they are always self-created ; and once

[1] Gierke, *op. cit.*, iii, pp. 362-72 ; Carr, *Laws of Corporations*, pp. 164 ff ; for brief summaries of this theory see Maitland, Introduction to Gierke, pp. xviii ff ; Krabbe, *op. cit.*, Introduction by Sabine and Sheppard, pp. xxxix-xlv ; Laski, *Foundations of Sovereignty*, pp. 141-3.

[2] See Savigny, *System des römischen Rechts*, §§ 86, 242, for the distinction between " natural " and " artificial persons ".

created, they acquire an organic principle which transcends even the wills of the individuals who support it. On the one hand, therefore, Germanist realism refutes the traditional idea of state-inclusiveness of the state as that from which all collective life comes and to which it must return. On the other hand, it seeks to establish the " sovereign " character of the group[1] by showing that the old distinction between real and artificial persons is based upon an abstract individualism, an atomistic conception of the social process.[2] The acceptance of both these arguments would necessarily lead us into political pluralism.

The realist position, however, is not without some obvious difficulties. In the first place, we may grant the view of Dr Gierke and his followers that, from the standpoint of social theory, the state and the groups are species of one genus[3]; both exist simultaneously, and the former does not create the latter. As social Darwinians, however, we must not only raise the question of the origin of these species, but, above all, distinguish an empirical and a legal origin of associations. Empirically, both the state and the group may spring from forces which neither the fiction-

[1] Maitland, *op. cit.*, p. xxi. [2] *Ibid.*, p. xxv. [3] Maitland, *Collected Papers*, iii, p. 318.

[2] "When a body of twenty, or two thousand, or two hundred thousand men bind themselves together to act in a particular way for some common purpose, they create a body, which, by no fiction of law, but by the very nature of things, differs from the individuals of whom it is constituted." Dicey, " Lecture on Combination Law ", *Harvard Law Rev.*, 17: 513; cf. Maitland, *Collected Papers*, iii, p. 315; Figgis, *Churches in the Modern State*, chs. i-ii. Dr Figgis was an ardent High Church Anglican, and his book is an application of the Gierke-Maitland theory to the churches.

[3] Maitland, Introduction to Gierke, p. ix.

theory, nor the theory of law itself can adequately explain.[1] Legally, however, in so far as we think of corporate personality in juristic terms, that is to say, as a duty-right-bearing-unit in a juristic system of which the state is the supreme agent, all corporations are plainly state-creations.[2] It is certainly safe to say that the Innocentians were not so foolish as to suppose that the state, in recognizing the legal personality of corporations, creates the corporations themselves. The lawyers can very well grant to the realists that the personality of the associations is " real ", and that it is more than a legal fiction, without abandoning their logical ground.

On the other hand, when we come to the more fundamental question of the controversy, the question, namely, whether the corporation is merely a collection of isolated individuals or whether it is an organismic entity, possessing a real will of its own, we are not sure that the realists have made their meaning clear. It is to be admitted, indeed, that the old view which regards the group as a mere aggregate of independent individuals is abstract and false. If, however, we accept Dr Gierke's view that the corporation, by virtue of its distinct purpose, possesses a " group-will " distinct from the private wills of its members,[3] must we

[1] Maitland writes : " The march of the progressive societies was, as we all know, from status to contract. And now ? And now the forlorn old title (namely " persons ") is wont to introduce us to ever new species and new genera of persons, to vivacious controversy, to teeming life ; and there are many to tell us that the line of advance is no longer from status to contract, but through contract to something that contract cannot explain, and for which the best, if an inadequate, name is the personality of the organized group ". *Collected Papers*, iii, p. 315.

[2] Cf. Lucas de Penna, " Solus princeps fingit quod in rei veritate non est." Quoted by Gierke, *op. cit.*, iii, p. 371.

[3] " Das Wesen der menschlichen Verbände ", *Rede bei Antritt des Rektorats*, Univ. Berlin, 1902.

not, by the same line of reasoning, attribute also a *real* will to the state, and conceive the state as an organic unity, namely, as a " real person " ? Such a conclusion not only conflicts with the theories of many recent so-called pluralists, especially M. Duguit, but suggests strongly the monistic notion of society as an organic system. To point out the fact of the divergence of social purposes, and that the state-will does not and cannot " include " these purposes, does not get us out of this difficulty. For if, according to the followers of the realist school, the state-purpose is the co-ordination of the groups, or the recognition of the rights of the corporations,[1] the will of the state, on that account, necessarily possesses a legal pre-eminence above all corporate wills. The state may not create real corporate persons ; it may not even arbitrarily abrogate the rights which properly belong to a legitimate group ;[2] both these, in fact, it cannot and should not do. But in so far as we admit the existence of a unitary legal system in which all group-purposes find their status and of which the state is the superior agent, our legal theory retains its essentially monistic character.[3]

[1] Figgis, *op. cit.*, p. 90. [2] *Ibid.*, pp. 13, 17, 32, 52, 86, 93, 100 ff. The question of the relationship between group-purposes and the state-purpose will be more thoroughly discussed in the sequel. Cf. our previous discussion in connection with Dr Krabbe's theory, above, pp. 28 ff.

[3] The literature on the corporate personality theory is, owing to special conditions, particularly extensive in France. The following works are representative : Planiol, *Traité élémentaire de droit civil* (1901) t. i, " Les personnes fictives " pp. 259-90 ; t. ii, " Association ", pp. 618-23 ; Vauthier, *Étude sur les personnes morales* (1887) ; Le Comte de Vareilles-Sommières, *Du contract d'association* (1903) ; Le Marquis de Vareilles-Sommières, *Les personnes morales* (1902) ; Negulesco, *La problème juridique de la personalité morale et son application aux sociétés civiles et commerciales* (1900) ; Garcin, *Le mainmorte—de* 1749-1901 (1903).

(*B*) *Constitutional Law*

Constitutional law, as rules and principles of the distribution of the sovereign power of the state[1], whether it is embodied in a flexible or unwritten constitution, as in England[2], or in a rigid or written constitution, as in the United States[3], has in theory always been regarded as the supreme legal authority of the state. The constitutional idea as realized in the modern democracies, therefore, is through and through a monistic idea, against which the pluralists would naturally be expected to react. Before we attempt to examine the pluralistic criticisms, let us first see how monism works in the English and American constitutional system.

The English constitution, in its unwritten form, is characterized by a high degree of flexibility, namely, by a power constantly to change and expand without apparent limits. This flexibility gives, on the one hand, a predominent rôle to constitutional customs and conventions, but on the other, calls for a substantial supremacy of parliamentary sovereignty which, in the absence of explicit constitutional provisions to define or delimit its exercise,

[1] Dicey, *Law of the Constitution*, p. 22; Willoughby, *Constitutional Law of the United States*, p. 8; Holland *Jurisprudence* (ed. 9) pp. 136-7; 349-53.

[2] Bryce, *Studies in History and Jurisprudence*, ch. i.

[3] For standard treatises on the Constitutional system of the United States, see Thorpe, *The Constitutional History of the United States*; Willoughby, *American Constitutional System*; Foster, *Commentaries on the Constitution* (only vol. 1 published); Burgess, *Political Science and Constitutional Law*; Burgess, *Recent Changes in American Constitutional Theory*.

and in the absence of some scheme of division of constitutional powers, possesses a unified authority which is virtually all-competent.[1] Viewed in this light, we may, indeed, question the accuracy of Tocqueville's assertation that the English constitution does not exist, since, being unwritten, it suffers constant alteration in the hands of the legislative body.[2] It is truer to say that parliament itself is the constitution, if we bear in mind that, according to the doctrine of the co-ordination of powers (in contrast to the balance of powers in the American constitution), the Crown and the Houses together constitute one constitutional body in which both *de jure* and *de facto* sovereignty are merged.[3]

In the United States where the constitution is written and rigid, and where the doctrines of "checks and balances" and of "state rights"[4] prevail in some quarters, we cannot, of course, expect to find a single constitutional body endowed with the sovereign power of the English parliament. On the other hand, however, it cannot be said that constitutional *decentralization*, in a real sense, exists in the United States. Here, it is true, *de facto* and *de jure* constitutional sovereignty are no longer united in one single governmental organ. But in so far as we regard the constitution itself as the one supreme source of all legal

[1] Blackstone, *Commentaries*, i., pp. 160-1; Austin, *Jurisprudence* (ed. 4) pp. 251-5; 268; De Lolme's saying is characteristic: "It is a fundamental truth with English lawyers that Parliament can do everything but make a woman man and a man woman."

[2] *Oeuvres complètes*, i, pp. 166-7; 312.

[3] Dicey, *Law of Constitution*, ch. 1.

[4] John Adams, *Works*, vi, p. 467; Madison, *Federalist*, no. 8; Von Holst, *Works*, i, p. 33.

authority,[1] we admit enough to prove the existence of a legal monism, a unitary *de jure* constitutional sovereignty serving as the final test and criterion of all laws of the nation. Furthermore, precisely because the American constitution is written and rigid, it speaks with a definite and unequivocal voice which is not found in the English system. Whatever loss it may suffer from the lack of a unified instrument under the federal mode of government is, therefore, more than compensated by this rigidity. Even, in fact, the doctrine of checks and balances, so typical of American federalism, does not seem to indicate an ultimate constitutional pluralism, as some pluralists may be inclined to think. For while the exercise of the authority of constitutional law is divided between three independent bodies, namely, the Executive, the Supreme Court (as the instruments of legal administration), and the Houses (as the instruments of law-making),[2] it would not necessarily follow that the constitution itself is accordingly broken up into a triarchy. And although neither Congress, nor the Supreme Court, nor the Executive alone can represent the whole of constitutional authority, all three, considered as the complete system of federal government, evidently would. The question of state-rights, similarly, tells a monistic story. For no matter how far we wish to go in

[1] Constitution of the United States, Art., vi, § 2: "This Constitution and the laws of the United States which shall be made in pursuance thereof and all treaties made, under the authorities of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."

[2] Thorpe, *op. cit.*, ii, pp. 457-8; 470; 485-7; 492; iii, 506; 523; Myers, *History of the Supreme Court*, pp. 258-83.

defending state-rights, we must at least acknowledge the ultimate limitations imposed upon state constitutional authorities by the federal constitution. We may accept the view that in so far as the legal status of the member-states is defined by the federal constitution,[1] state-constitutions must be regarded as deriving their authority, even though very indirectly, from the federal constitution. If so, then the state legislatures in so far as they must observe the provisions in the federal constitution and cannot make laws contrary to them; in so far as they cannot change the fundamental laws of the constitution in their isolated capacity; and in so far as their laws are at any time subject to the pronouncement of the Supreme Court as to their constitutionality; must be regarded as what Dicey calls "non-sovereign" law-making bodies, in contradistinction from the federal constitutional organs which are "sovereign".[2] In this sense, we are compelled to conclude that constitutional monism is as undeniable a fact in the United States as in the English democracy.

Naturally enough, the pluralistic criticisms of the constitutional idea are directed both against the English and the American system. Against the American system the pluralists set up their anti-legalism[3] and recommend an

[1] Willoughby, *The Nature of the State*, pp. 272-5; Willoughby, *Principles of Constitutional Law*, pp. 18 ff; 58 ff; 68 ff. Cf. Marbury *vs.* Madison, 1 *Cranch*, W37; U. S. *vs.* Peters, 5 *Cranch*, 115; Cohen *vs.* Virginia, 6 *Wheaton*, 264. [2] *Law of Constitution*, pp. 88 ff; 147.

[3] Dr Krabbe, however, must be excepted. He holds that the "modern idea of the state" is a direct development from the modern idea of constitution; a *Rechtsstaat* necessarily demands a definite system of constitutional authority. He objects to the old constitutional idea in so far as it is founded upon mere force. See *op. cit.*, pp. 30-4; 137; cf. above, pp. 29 ff.

" experimentalist " method of political control ; in the English system, they bitterly attack the institution of a sovereign parliament, which they think must give way to a constitutional decentralization in which the balance of interests will become the fundamental idea of legislation. The resulting pluralistic constitutional system would be, as we shall presently see, a hybrid of the English and American systems, minus the essential and operative features of each : an unwritten constitution with a check-and-balance (in a new sense) organization of its instrument.

Professor Laski's own words will serve as a convenient introduction to our discussion of the first point. He says of pluralism that it " does not try to work out with tedious elaboration the respective spheres of state, or group, or individual. It leaves that to the test of the event. It predicts no certainty ", he declares, " because history, I think fortunately, does not repeat itself ".[1] Thus, as political experimentalism, the pluralistic theory seems to imply a natural aversion from a rigid form of constitution which, like that of the United States, defines once for all the relative spheres of governmental powers. The very idea of " negotiation " itself, of which Mr Laski is very fond, precludes the possibility of a written constitution and reveals to us, briefly yet eloquently, the real character of the pluralistic constitutional idea, if there be any—namely, that a good constitution must be something like the English system, always in the making, but never definitely made.

This pragmatic tychism and anti-legalism, which is clearly opposed to the American idea of the constitution,

[1] *Problem of Sovereignty*, p. 23.

is a plausible doctrine as long as it recognizes that a flexible or unwritten constitution always calls for a unified constitutional instrument, something like the English sovereign parliament. A sovereign parliament, however, is precisely what the pluralists do not want. On the contrary, typical pluralists, like Mr Laski, Mr Cole, and Mr and Mrs Webb,[1] agree that legislative power must be divided between several bodies, or " parliaments ", so that the legislative function, as a constitutional instrument, becomes a system of balance of powers, not between a parliament and a supreme court, but between many independent " functions " or organized interests, and so that everyone of them " should be, in its own sphere, supreme ".[2] Here, indeed, is where the first pluralistic difficulty comes to light. For in the absence of a written constitution, the true constitutional spirit must always depend upon its interpretation by its organ ; the dismemberment of its organ into a multiplicity of independent law-making autonomies would necessarily open wide the door to constitutional disputes and strifes which, under such circumstances, would be impossible of settlement. Or, to put the case the other way. A federalism, whether merely territorial, as in the United States, or " functional ", as recommended by the pluralists, with *de facto* political and judicial powers distributed among a number of different organs according to the doctrine of checks and balances, is always liable to lead to conflicts of jurisdiction between these organs, which

[1] Cole, *Self-Government in Industry ; Labour in the Commonwealth*, especially pp. 184-92 ; S, and B. Webb, *A Constitution for the Socialist Commonwealth*, pp. xv ; 103 ; 111 ff. [2] Webb, *op. cit.*, p. 122.

conflicts, indeed, can be settled only by appealing to a definitely established constitutional authority superior to the disputing bodies. It must not be supposed that our argument here is based on a mere demand for logical consistency. For, obviously enough, "negotiation" is too uncertain a political method to be always relied upon. A serious conflict of authorities may not only end in a deadlock—a difficulty which the pluralists themselves recognize—but may prevent the disputants from submitting their differences to impartial arbitration at all (as the recent Pennsylvania anthracite miner-operator dispute unhappily shows). An anti-legalism, consequently, would compel us to solve federal conflicts on any but a constitutional basis: prolonged efforts of compromise usually involve heavy loss to all the parties concerned; frequent special conventions are expensive political expedients; and the last alternative, civil war, would prove loathsome to most of us. A federalism without constitutional sovereignty, therefore, as Dicey rightly points out, is inconceivable.[1]

The pluralistic attempt to combine the flexibility of the English constitution with a federalism which differs from that of the United States only in its principle of division (namely, "functional" instead of territorial) seems to be

[1] *Op. cit.*, pp. 170, 464.

The word "constitutional," consequently, assumes two entirely different meanings in England and in the United States. In England, where the constitution is unwritten and the Parliament supreme, a law is unconstitutional if it is contrary to the spirit of the constitution; it is binding, nevertheless, unless repealed by a parliamentary act. In America, a law is unconstitutional when the Supreme Court declares that it conflicts with the Federal Constitution; it becomes void at once without any repealing act of the Congress.

an impossible task. The "radical-empiricist" spirit of the pluralists is, indeed, a wholesome reaction against conservatism and despotism; but when it develops into an anti-legalism, it merely points the way to the triumph of contingent force. Society, in other words, is freed from the absolute rule of fixed law in order that it may submit itself to the will which can secure actual obedience.[1] On the other hand, the opposition to unity succeeds in abolishing one sovereign parliament only by installing several. But if constitutional authority is an evil, several such authorities would be intolerable. In fact, the difficulties involved in the division of the constitutional instrument into a number of independent organs are obvious even to some pluralists themselves. Mr Cole as well as Mr and Mrs Webb have acknowledged, at least by implication, the difficulty of drawing clear lines of demarcation between the various functional legislative spheres, and have sought to solve this difficulty by a sort of supreme court which will effectively settle questions of conflict between them.[2] But a supreme court as the final legal arbiter of all conflicts is certainly a monistic remedy for a pluralistic remedy; it may be good medicine, but it does not seem to fit into the general pluralistic system. For whether there is a written constitution behind this supreme court[3] or not, whether

[1] Laski, *Problem of Sovereignty*, pp. 16-7.

[2] Cole, *Social Theory*, pp. 135-7; Webb, *Constitution*, pp. 122-3. Mr Laski, in his later writings, explicitly rejects the idea of balance of functions; see *Grammar of Politics*, pp. 431 ff; cf. *infra*.

[3] Mr and Mrs Webb insist that there should be no written constitution in the new democracy. On the other hand, they suggest that the power of the American Supreme Court, as manifested in the irrevocability of its decisions, has been too absolute; this power, consequently, should be

the court is a constitutional interpreter in the one case, or exercises unrestrained legal dictatorship in the other; every time it settles a question of dispute between the pluralistic bodies, the pluralistic state is brought one step back to monism, a possible regression to which our pluralists have not as yet placed any safe limit.

Political pluralism, however, tends to transform the traditional constitutional idea in another and more positive way; it seeks to place the old idea of the constitutional guarantee of individual freedom on a wider and more positive basis. It is here that monism may learn an important lesson from its critics.

The modern constitutional idea originated largely from a desire to secure individual rights against political power which, unfortunately, had too often been oppressive in the past. Constitutional limitations were, therefore, placed upon government by drawing lines of demarcation between individual liberty and political interference, definitely enumerating the spheres of individual action into which the arms of public law and government could not reach. Thus, from the Magna Charta down to the Bills of Rights attached to many existing constitutions, the growth of individual liberty in modern democracies consists in the widening of its constitutional scope. On the one hand, political power itself, as wielded by government, has been in many instances limited by schemes of checks and

limited by giving Congress the right to overrule court-decisions " without undue difficulty or delay". It is apparent that such a supreme court would be almost useless as an arbiter of disputes between the " parliaments ", since the latter are given the final power of overruling the court. *Op cit.*, p. 123, footnote.

balances, or by the separation of powers between different parts of the government, so that despotism is less liable to occur and the evils of the misuse of political power are less violent.[1] Individual liberty *versus* state power, then, is the formula from which the modern constitutional idea was born and according to which it is developed.

Such a negative guarantee of individual rights, however, must be far from adequate. There are at least three obvious difficulties which a student of modern political theory cannot overlook. In the first place, the separation of the sphere of individual liberty from that of political control is not so simple a matter in practice as some writers are wont to imagine in theory. Furthermore, so long as we regard these spheres as mutually exclusive and opposed, the extension of the scope of the one would mean the abridgment of that of the other. Political theory would mark time by the perpetual swing of the pendulum between non-interference and paternalism.[2] In the second place, and theoretically speaking, the idea of constitutional guarantee seems to contradict the idea of democratic government itself. A democracy should be a government of and by the people ; to protect the individual from the state would be equivalent to protecting the people from

[1] President Woodrow Wilson enumerates the following essentials of a constitution : (1) a more or less complete and particular formulation of the rights of the individual against the government ; (2) an assembly representative of the people against the government ; (3) a government subject to laws ; and (4) a judiciary with independent powers. *Constitutional Government in the United States*, pp. 23-4.

[2] Spencer and the philosophical anarchists would represent one extreme. The paternalistic tendency, the other extreme, according to Professor Burgess, is particularly dominant in the United States. See Burgess, *Recent Changes in American Constitutional Theory*.

themselves. Indeed, if popular government itself cannot insure individual liberty and needs the assistance of an artificial guarantee, then neither constitutionalism nor republicanism, as it exists, can be a final solution of the problem of democracy. Thirdly and lastly, facts in modern Western society also indicate that, with the growth of social life in richness and complexity, the old constitutional scheme becomes more and more inadequate, if not altogether obsolete. The trend of present Western society is toward organization, especially in the economic-industrial realm. The individual frequently finds himself ruled, oppressed, and crushed by the despotic forces of economic organization in which the freedom of contract often means an auction into slavery. Granting, therefore, that the constitutional guarantee has succeeded in protecting the individual against political absolutism, it cannot save him from the tyranny of the ever-growing social-economic collectivism.

The pluralists seek to extend the freedom of the individual,[1] both politically and economically, by recommending a positive constitutional idea based upon a new conception of human nature. On the one hand, they reject the abstract view which fixes an immeasurable gulf between the individual and society—the idea that the individual is an atom-like entity, undifferentiated and self-contained.[2]

[1] Mr Cole says: "The freedom that ultimately matters is, after all, the freedom of the individual." *Labour in the Commonwealth*, p. 196. Similarly, Mr Laski declares "The problem of to-day, as the problem at the time of the French Revolution, is the restoration of man to his place at the centre of social life." *Problem of Sovereignty*, p. 90. Cf. Webb, *op. cit.*, pp. 128 ff; 140 ff.

[2] Figgis, *op. cit.*, p. 88.

On the other hand, they point out that while the individual is continuous with society, individual freedom is not co-extensive with political freedom. The individual is far more complex than a mere " political man ". He has more than one allegiance, more than one interest, more than one will ; to merge his whole personality into citizenship is, to say the least, to render the expression of his freedom incomplete. The traditional type of constitution, therefore, in so far as it gives a narrowly political interpretation of the nature of the individual,[1] is absolutely inadequate as a defence of freedom.

Starting from these two premises the pluralists attempt to offer a solution both of the dilemma of paternalism *versus* individualism and of the problem of group antagonism, the latter being particularly imminent at the present. The constructive suggestions made by Mr and Mrs Webb in their *Constitution for the Socialist Commonwealth* deserve careful consideration.[2] The main lines of human interests which seem to be more or less permanent and which are susceptible to organization are grouped into two classes, the political and the social : the former comprehends all the affairs of the state, matters which concern the individual as citizen, while the latter includes such interests as economic production and consumption, religion, art, etc. Each of these two main interests would constitute a commonwealth, represented by a separate " parliament ". Here, then, is a concrete picture of the pluralistic state : a division and balance of power between two " demo-

[1] Laski, *Yale Rev.*, n. s., 9 : 788-803.
[2] See especially pp. viii-xiii ; 1-93.

cracies", a constitutional decentralization between two "parliaments"; or, more exactly, "functional federalism."

This pluralistic constitutional transformation seems to us, in its general spirit, to be of great significance. It seems to represent a transition from a negative to a positive idea of the nature of constitutions, since the constitution is no longer regarded as a mere protection, but a direct means of expression of individual freedom. Furthermore, by recognizing the legitimate rôle of the interest-groups in the constitutional system, it also opens our vision to a democracy in which the manifold social purposes of the individual will be able to attain their full realization. For the danger of social-economic-despotism lies not in the fact that the economic function has been highly *organized* in modern Western society, but in the fact that the powers resulting from its organization have not been properly co-ordinated. The violent use of organized power as a weapon against class-oppression itself becomes oppressive. The scheme of balance as recommended by Mr and Mrs Webb, which represents one of many similar pluralistic schemes, is designed precisely to effect a harmonious co-ordination between economic and political forces so that each of these, in performing its own specific function properly, loses its oppressive character and becomes a legitimate representative of individual purposes. Whether this scheme can meet the practical demands of present social organization, and whether this division of power may be regarded as a truly pluralistic organization of the state, however, remains to be seen. For the sake of convenience we now turn to the discussion of pluralism from the standpoint of modern international law.

(C) *International Law*

The pluralistic attempt to expunge the notion of sovereignty from political theory extends, finally, into the realm of international law in which the state is considered in its external relation to other states like itself. Here the pluralists advance their arguments in two main directions. First, they are concerned to show that the notion of state-sovereignty is incompatible with true international law, and, secondly, that with the growth of modern social life in complexity and organization, states should no longer be regarded as the sole subjects of international law, or as the sole units of international relations.

The traditional theory of international law begins with state-sovereignty and finds the source of its binding force in the state-will.[1] Such a conception, however, the pluralists point out, is too obviously full of difficulties. For if international law flows ultimately from the consent of states, we are at a loss to discover its real character, since it is not, as the Austinians say, the command of a sovereign.[2] On the other hand, if we admit that international law derives its force from the consent of the sovereign wills of states, we must also admit that as soon as a state revokes its sanction, it is theoretically no longer binding upon that

[1] See Oppenheimer, *International Law* (ed. 3), i, pp. 14-9; "State Consent"; p. 206; "State Sovereignty"; Jellinek, *Die Lehre von den Staatsverbindungen*, pp. 16-36; "State Sovereignty"; De Louter, *Le droit international public positif*, pp. 17, 172; *Het stellig Volksrecht*, i, pp. 17 ff., "State-Will".

[2] Cf. Figgis, *Gerson to Grotius*, pp. 126-30; Gierke, *Op. cit.* (English translation), pp. 82-100; Lawrence *International Law*, p. 10.

state.[1] Thus it seems undeniable that the theory of state-sovereignty, especially in the form of the doctrine of independent state-will, precludes the possibility of a real international law ; and so long as states are allowed freely to assume or deny international legal obligations, they are in a state of brutish natural war, so vividly painted by Hobbes in depicting the conditions of the hypothetical society of sovereign individuals.

It is here that the pluralists join hands with the more modern schools of international jurists in criticising the traditional theory.[2] The root of the difficulty, it is argued, is not reached unless we abandon the introspective method of political speculation which leads to a kind of solipsism : to a state contemplating its own pure self-identity and independence.[3] On the contrary, we must recognize the fact of the inter-dependence and organic relationship between the nations of the world, in commerce, science, art, religion, etc. ; and even the law of the nations itself, however imperfect it may still be, however frequently it

[1] Krabbe, *op. cit.*, pp. 231-2.

[2] For the views of international jurists who oppose the sovereignty theory, see Kelsen, *Das Problem der Souveränität und die Theorie des Volkerrechts*, pp. 189 ff ; Nelson, *Die Rechtswissenschaft ohne Recht*, pp. 6-44, 77-92, 96-102, and concluding chapter. Cf. also Angell, *The Great Illusion ;* Krabbe, *op. cit.*, ch. 10 ; Cole, *The State and Its External Relations*, Arist. Soc., 16 : 137 ff.

[3] Mr Cole writes : " Political theory has been Cartesian in method. It has sought to define the nature of states by an analysis of the consciousness of a typical State. ' What,' it has inquired, ' is the nexus in bodies politic ? ' ; and it has answered, if not precisely *Cogito ergo sum*, at least, *Protego ergo obligo.*" Further on : " the introspective method in political theory has all the disadvantages as in the theory of knowledge. It leads to political Solipsism, which is otherwise known as Imperialism." Arist. Soc., 16 : 311, 325. Cf. Bosanquet, Arist. Soc., 17 : 32.

has been violated by states, seems to afford a positive proof that thorough-going imperialism is an impossibility. Moreover, the fact that international law has thus far not achieved the status of national law is no argument for the preservation of the sovereignty-theory. The difference between them, to be sure, is that the former rules over states, while the latter over individuals and groups within a national community. But if we are willing to get rid of the notion of the natural rights of nations as we have of individuals, a true international law, surely, can be made as we have made national laws.

Plausible as these lines of arguments are, we must not hastily conclude that political monism is really demolished by them. In fact, Dr Krabbe's conception of a universal "legal community" in which all states are placed under one system of law[1] curiously reminds us of the world-empire of Dante. "A nation", Dr Krabbe declares, "has no natural right to lead an independent legal life. If the legal value of the interests of the international community is not furthered by such an independent legal life, the claims of a nation to regulate its own communal life according to its own legal standards are invalid."[2] The law of the universal legal community, therefore, is to be a truly supreme law, a law which rules above all nations by its own intrinsic force.[3] Such a more or less utopian

[1] *Op. cit.*, pp. 231-2. [2] *Ibid*, p. 239.

[3] Dr Krabbe writes: "The name *International Law* is really a misnomer; the name is suitable only to the theory which regards states as subjects of this law and which, consequently, regards it as a law *between* states. It would be better, therefore, to speak of a *supernational law*, since this expresses the idea that we are dealing with a law which regulates

legal cosmopolitanism is evidently as attractive as it is dangerous. " If the legal value of the interests of the international community is not furthered " by independent national legal life, to repeat Dr Krabbe's argument, " the claims of a nation to regulate its own communal life according to its own legal standards are invalid ".—What a convenient argument for imperialistic nations to employ when they wish to annex one or two smaller, weaker nations (whose legal standards are supposedly " uncivilized ") to their glorious empires, not for their own selfish ends, but " in the name of humanity ".

Our real objection to Dr Krabbe's cosmopolitanism, however, must be urged from the standpoint of pluralism. The " universal sense of right ", we agree with him, is a powerful weapon with which to demolish the theory of state-sovereignty in its external relations. But we wish also to note that while the state loses its sovereign self-sufficiency in becoming a humble subject of international (or supernational) law, it loses also its genuine autonomy ; it ceases, in other words, to be a pluralistic entity. Indeed, with the establishment of an " international sovereignty " having supreme authority to enforce supernational law[1], the national legal community undergoes metamorphosis and is merged into a world-empire, " the One State uniting the whole of mankind ".[2] This, we say, is the last word

a community of men embracing several states and which possesses a correspondingly higher validity than that attached to national law." *Ibid.*, p. 245.

[1] *Op. cit.*, p. 269.

[2] *Op. cit.*, pp. 271-3. It seems that the transitional state to Dr Krabbe's universal legal community is much nearer to pluralism. In that

of Dr Krabbe's jurisprudence: the universal empire of Dante comes back with a vengeance—a far cry from pluralism.

We are now ready to consider our second point, namely, the pluralistic denial of the soundness of the view which regards the political state as the sole unit of international law. At least three reasons which the pluralists present deserve our especial attention. In the first place, they point out that in view of the numerous associations in a well-developed modern community, the political state can neither embrace within its narrow sphere the myriads of social relations and obligations which bind the individuals into a number of divergent interest-centres, nor can it even harmoniously synthetize the wills and purposes existing in these separate (and often conflicting) groups into anything like a unitary state-will. Hence, if the state itself is not the inclusive representative of the national community, we must obviously seek the true unit of international law in some other organization. Secondly, the pluralists wish us to note that international non-political groups—particularly such groups as international labour unions, religious organizations, art leagues, etc.—owing to the very fact that they are international, far transcend the scope of the national state. How, the pluralists ask, can we justly entrust all international dealings to the state,

stage there are many international legal communities, each composed of several states, each having an independent legal value. His theory, in this light, represents a compromise between the traditional theory, which conceives the international community as a collection of sovereign states, and cosmopolitanism, which implies the existence of a single political organization for all mankind. Cf. *op. cit.*, pp. 238 ff.

since there are many definite social relations of which it is ostensibly unable to take account and over which it has no jurisdiction ?[1] Thirdly and finally, it is suggested that granting that states, as the sole units capable of making war and peace, are the most natural and convenient units of international relations, it does not follow that they are the most desirable. Too often international wars have been waged by political groups against the wills of many individuals and non-political groups which, by their very nature, are opposed to war ;[2] while agreements of peace, on the other hand, are frequently not indications of unrestrained goodwill between peoples, but results of diplomatic intrigue and deceit which secure a temporary truce in order to gain time for a renewed clash. An international peace, therefore, is impossible so long as we cling to the idea of states as the legitimate organs of war. We must, on the contrary, endeavour progressively to diminish the war-making powers of the state by fostering the growth of voluntary organizations, national and international, so that the peaceful interests of men shall eventually out-balance the imperialistic inclinations of a handful of blood-and-iron statesmen. Pluralism, in this way, reveals itself as a constructive doctrine of world-peace.

[1] Cole, Arist. Soc., 16 : 323 ff.

[2] Mr Lewis Munford writes : " We must employ, that is to say, the great industrial, professional and civil associations deliberately to challenge the sovereignty of the state when it steps outside its purely pacific administrative sphere. For in the growth of voluntary associations, linking across frontiers, lies the possibility of diminishing the strength of those compulsory military organizations which still, whether in isolation or in alliance, threaten the peace of the world." " Wardom and the State ", *The Dial*, 67 : 304.

Most pluralists, however, leave us in the dark as to the actual structure of the future world-community which they wish to realize. Presumably, political states are to continue to be subjects of international law; for no pluralist desires to abolish the state. But shall we also make national or international non-political organizations subjects of international law? Shall we, in other words, construct our world-community along the line of the national pluralistic community and realize a universal functional federalism? Shall we, recognizing the fact of the diversity of human interests, establish a duality of world-parliaments as international law-making organs, namely, an international political parliament, composed of delegates from national political states, and an international social parliament, representing national social interests? It is, of course, incumbent upon the pluralists and not our duty to answer such questions. It may be surmised, however, that whatever be the actual component parts of the world-community, the mode of relationship between them cannot be other than what Mr Laski calls negotiation. For, as our previous discussion of Dr Krabbe's view shows, the establishment of any supernational, central world-authority, legal or political, would immediately convert the world order into a colossal monistic state. On the other hand, we should not be unduly optimistic concerning the prospect of permanent world-peace through the development of international non-political associations. Bitter experience has sufficiently taught us that industrial organization is as capable of intensively destructive warfare as the state, and the hatred which economic

struggle breeds is often no less cruel in its consequences than political hatred. World-peace, we admit, is impossible on a theory of sovereign states—sovereign in the sense of morally irresponsible; nor is it realizable by merely transforming the world-society from a condition of state-struggle to class-struggle. The only guarantee of world-peace, we say, is the will to peace itself.

CHAPTER III

PLURALISM AND REPRESENTATIVE GOVERNMENT: FUNCTIONAL REPRESENTATION

The cardinal problem of modern democracy is the problem of representative government. Self-government through direct participation as revealed in the Greek city-democracy has long since become impossible with the growth in magnitude and complexity of political organization, especially in a modern Western society, in which the number of citizens is many hundredfolds greater than that of Sparta or Athens. Government by the people, therefore, is now necessarily government by suffrage, election, and delegation.

For many old-fashioned liberals, the Benthamite formula of each counting for one is a sufficiently adequate working principle of representation, provided the counting is extended to as many heads as possible, and provided the territorial grouping of these heads into constituencies is justly and equally made. And so when universal suffrage (the right, namely, of everyone, including women, to vote) comes to realization, the political millenium will have arrived and democracy reached its culmination. Optimistic liberalism, on the other hand, often places a rather uncritical confidence in the machinery of popular government —the assembly as appointed by the people and the party system which directs and organizes the opinions of the

voters as well as the deputies. Bentham's exaltation of the English parliament into virtual omnipotence[1] is a classical example of the willingness of modern statesmen to permit the fate of democracy to stand or fall with the uncertain fortunes of the representative body; whereas in the United States it has frequently been regretted that, for some voters at least, to be a good citizen largely amounts to obeying one's party-conscience, namely, by voting a "straight ticket", Republican or Democratic, as the case may demand.

To persons of keener insight and politically more sophisticated, the problem of popular government is not such a simple matter. Representation itself does not offer a final solution, but presents in turn a host of further problems. Parliamentary sovereignty, a god-send in the days of Bentham, has later been regarded as a sheer political superstition, to be discarded as soon as opportunity permits;[2] while the party system appears to some to be no better than a necessary evil,[3] and to others an oligarchy in thin disguise.[4] Opinions in many quarters, therefore, seem to indicate that the age of complacent democratic faith is now rapidly passing. In its stead, we have a new age of democratic criticism, in which the infallibility of the

[1] Dicey, *Law and Public Opinion*, pp. 304-5.

[2] Herbert Spencer, for example, in his criticism of parliamentary sovereignty. He writes: "The great political superstition of the past was the divine right of kings. The great political superstitution of the present is the divine right of parliaments." *The Man versus the State*, p. 78; cf. p. 83 and "Representative Government—What is it Good For?" *Essays*, iii, pp. 283-325.

[3] Bryce, *American Commonwealth*, i, p. 74.

[4] Michels, *Political Parties*, in which he develops the thesis that the party tends toward oligarchy in modern states.

principle of suffrage and representation can no longer be assumed. Political pluralism naturally shares a part of this critical spirit ; it undertakes, however, to suggest also certain constructive reforms in the existing organization of the electorate, the assembly, and the party system. How exactly it proceeds in its task is the burden of the present chapter to show.

(*A*) *The Electorate*

Pluralists point out two main errors in the existing electoral system, the first and perhaps the central one being the assumption of the existence of a general will[1] and the possibility of ascertaining this will through the ballot box.

Democracy, to the pluralists, has always meant majority rule, the deciding of national issues by counting the number of persons who are given the right to express their will in some explicit manner. The justification of the dominance of the will of the majority, according to Rousseau, lies not in its superior force, but in the fact that it is the effective expression of the general will[2] which is the essence and condition of all political society, the pivot upon which the political process turns. The general will, he argues, is the only will that concerns itself with the good of the state as a whole ; and, on that account, each individual, as

[1] See below, ch. vii., for a discussion of the problem of the general will.
[2] *Social Contract*, iv, ch. 2.

citizen of the state, must be assumed to possess this will in a uniform manner with all other individuals.[1] The ballot, therefore, appears to ask every voter this question: Is this issue under consideration in conformity with the general will? Or, which of these candidates do you, as a citizen and a political being, think best fitted to promote the general good? Opinions, of course, may and do differ; but all opinions, whether in the majority concord or in the minority dissent, are presumably direct answers to the challenge to discover the content of the general will. Rousseau, indeed, knows that there are other wills than the general will in the individual; in fact, a host of particular wills are always striving to get into politics, manifesting themselves together as a "will of all". These wills, however, precisely because they are particular, are irrelevant to the general will, and must, consequently, be forbidden to enter the sanctity of the ballot box. That they may be intensely interesting, especially to those who possess them, is not to be denied; but any voter who votes in terms of these wills and not of the general will evidently evades the real question which the ballot puts to him. To count such votes, then, is to pollute the purity of the political process, to obscure the general will itself. For in so voting, the citizen really loses his character as a citizen and degenerates into a partizan, a person who has some partial interest in view.

Now Rousseau interpreted in this fashion is exactly the Rousseau whom the pluralists condemn, the Rousseau who

[1] Cf. Dr Krabbe's justification of majority rule on the assumption that the "sense of right" is equal in every individual. *Op. cit.*, pp. 75-87.

possesses brilliant logic but a dangerous theory.[1] In order to construct a sound theory of popular government, so the pluralists insist, we must negate everything he says of the general will. Instead of being the essential ground of all politics, the general will is a political fiction which never does or can exist. On the other hand, the particular wills which Rousseau so carefully restrains are very real and intimate to the individual, and hence indispensable to the political process. Indeed, we cannot designate the individual a "political being", exclusively. Countless relations bind him, and more than one organization claims his allegiance.[2] A person may be a member of the bankers' association, a believer belonging to the Presbyterian Church, etc., besides being a citizen of the political state. In each of these associations he has a specific interest, and in expressing each of these interests he must have a distinct will. To insist, therefore, as Rousseau has insisted, that it is the general will, the will of the state alone that is worth reckoning with in a democratic government, and that all other wills must be suppressed or ignored, is to insist upon an undemocratic, "vicious and inhumane abstraction" which seriously impedes the expression of individual freedom. Furthermore, a popular government that confines itself to discovering the general will must be futile. The general will is such a vague thing that every time the voter (granting that he honestly subscribes to the Rousseauan doctrine) tries to express it at the ballot box,

[1] Laski, *Foundations of Sovereignty*, p. vi.

[2] Figgis, *Churches in Modern State*, pp. 86-7; cf. L. T. Hobhouse, *Social Development*, pp. 38-9; Cole, *Labour in Commonwealth*, pp. 41-2.

he must face a hopeless puzzle.[1] No wonder, then, that what we have usually supposed to be the working of the general will in a majority decision turns out to be really the dominance of a certain partial interest which, for the time, happens to possess numerical strength.[2]

There is, however, a second line of pluralistic criticism which we must consider. Representative government, as it is said, is a democratic scheme by means of which one man or a few men are to represent many thousands. The electors send into the assembly a number of deputies ; by election they delegate their wills to the latter, so that whatever the deputies do would express exactly what the electors will to do. This, however, is not only paradoxical, but utterly untrue. For " men cannot be represented " ; the individual is a " host in himself ", whose personality is so complex and unique that no other individual can completely understand its meanings and inclinations.[3]

[1] These words of Mr and Mrs Webb are worth quoting : " We ask the elector what is his will as a human being ; whereas he never has, and never will have any definite will as a human being. When he is conscious of himself as a consumer, he has a will, which he can often express articulately enough. When he is conscious of himself as a producer, he has a will, very often a turbulent and determined will. When he is conscious of himself as a citizen, concerned with the administration of the national resources, and his physical and mental environment in which he and his family has to live, he has a will though often needing, on the part of his representatives, patient study and expert interpretation, so as to secure, in the event, what he desires. When, finally, he is conscious of his country, with the maintenance of personal liberty, and with defence against aggression from without or from within, he has a will, which may easily become so intense that, to attain his ends, he will go even to death. But when the twenty-two million electors are asked, in the vague, what is their will about all sorts of things at once, how can we wonder that any manifestation of a ' General Will ' is imperfect and indistinct ? " *Op. cit.*, pp. 79-80.

[2] Laski, *Foundations of Sovereignty*, p. 238.

[3] Cole, *Labour in Commonwealth*, pp. 190 ff.

The apparent plausibility of the traditional principle of representation, therefore, rests largely upon the false assumption of the uniformity of individual wills, the supposed fact, namely, of the substantial concurrence of individual wills in the general will. But the general will, as has been suggested, is a political dilemma. If it is interpreted broadly enough to cover all special interests in the community, it is too vague for articulate political expression. If it is narrowed down to include merely the political interest, it becomes an inadequate expression of individual freedom. The real solution of the problem, however, is not far to seek. It "lies in the abandonment of the idea of universal representation, and the substitution of that of functional representation"[1]—that is to say, in the abandonment of the idea of the representation of the general will, which assumes the identity of all individual wills, and the substitution of particular wills which different groups of individuals possess in common. Let us now examine in some detail the pluralistic idea of functional representation.

The theory of functional representation implies two important changes in the electoral system. In the first place, it abolishes the Benthamite formula of each voter counting for one and no one for more than one, and adopts, in its stead, a scheme by which only specifically recognized social interests are reckoned with in the ballot box. It emphasizes the idea that men are related to one another, not only through the state allegiance, but through their

[1] Cole, *Labour in Commonwealth*, p. 191; cf. *Social Theory*, pp. 103 ff; 115.

affiliation with other associations and groups which are not included in the state-organization. The individual will, in this light, is never general, in Rousseau's sense, but always particular. In order to be socially intelligible, however, the individual does not manifest his will in isolation ; he joins it to other similar wills, thus creating a number of association-wills which are " general in relation to the members " while " particular in their relation to the state ". It is here, indeed, that the pluralistic antithesis to Rousseau's theory becomes most thorough and complete. For while Rousseau warns against the danger of allowing particular association-wills to be heard in the government (a situation is thereby created in which " there are no longer as many votes as there are men, but only as many as there are associations "),[1] Mr Cole insists that this is precisely the sort of representative system which the pluralists seek to bring about : popular government is not to be a counting of heads, but a counting of purposes. Evidently, since each individual possesses more than one interest, he must be given the right to cast more than one vote.[2] Each individual, in other words, is to count as many times over as he has wills, and it is in the idea of plural vote that the pluralists hope to discover a remedy for the evils which inhere in the traditional system of universal suffrage.

In the second place, functional representation calls for a

[1] *Social Contract*, ii, ch. 3.

[2] Mr Cole writes : " The essence of functional representation is that a man should count as many times over as there are functions in which he is interested. To count once is to count about nothing in particular ; what men want is to count on the particular issues in which they are interested." *Social Theory*, p. 115.

transformation of the existing organization of the electorate by supplementing the purely territorial with a functional division. Territorial representation, according to the pluralists, is thoroughly unjust because it presupposes a homogeneity of purpose, namely, as summarized in the general will, among the residents of all localities. Such a hypothetical unity of will, as we saw, does not exist. On the other hand, if we recognize the existence and reality of the multiplicity of social interests, objectified in the associations and flowing from the diversity of individual wills, it seems imperative that we should also reorganize the electorate accordingly so as to give to these interests as direct and as just a representation as possible. In the pluralistic state, therefore, the main lines of electoral division will not be drawn according to the boundaries of cities, districts, counties, or states, but along the boundaries of the different spheres of nation-wide social interests. The territorial constituencies, of course, are not to be abolished; they are still to serve as the convenient units of *political* representation. How exactly the geographical and functional constituencies are to be related to one another, the pluralists do not tell us in any precise manner.[1]

[1] Functional representation, as advocated by the pluralists, is also known as occupational representation. For certain technical difficulties of this scheme, see Douglass, "Occupational *versus* Proportional Representation", *Am. Jour. Sociol.*, 29: 127-9.

The idea of functional representation throws a new light upon the problem of women suffrage. Generally, the central argument for women suffrage has been based on the ethical conception of equality, that is, women as human beings should possess an equal share of rights to men as human beings. From a pluralistic point of view, however, it may be argued that women should vote not merely because they are human, but because they have certain specific functional capacities which demand

(*B*) *The Assembly*

Reserving our criticism of the pluralistic reorganization of the electorate for a more convenient place, we may now proceed to consider the evils which the pluralists have discovered in the existing representative assembly and the remedial changes which they propose to bring about. In the first place, they point out that with the gradual disappearance of the revolutionist doctrines of the restriction of governmental powers and *laissez-faire,* the modern state has evolved from a mere " police state " to a paternalistic state which undertakes to do a thousand-and-one things, from the making of war and peace to the regulation of commerce and industry. Unfortunately, however, the magnitude and complexity of the affairs in a modern Western community have extended far beyond the capacity of the state : the more the state tries to do the less efficient it becomes. The legislature, which has to decide upon all such issues, naturally finds its burden the heaviest ; and the prominent position it occupies makes it an easy target of criticism.[1] Everywhere it seems to decline more and

legitimate expression in social organization. Thus, to put the matter on a purely economic basis, we admit that women at present dominate. if not monopolize, certain occupations, e.g., telephone operation, stenography, etc. Now if we accept the general idea of occupational representation, we must naturally insist that the professions of telephone operation, etc., in so far as they are organized, should have a right to political participation. We may, indeed, go farther than this. We may regard the whole feminine sex as a great social function which constitutes, by the side of a men's democracy representing the function of the masculine sex, a democracy of women. In this way the ethical right of self-government is secured for both sexes, and the facts of biological, psychological, and social differences between them are not disregarded.

[1] Webb, *op. cit.*, p. 78 ; cf. Cole, *Labour in Commonwealth*, p. 189.

more in popular esteem. Neither the legislature itself, however, nor congressmen, who are so often ridiculed in the United States, are really to be held solely responsible for this state of affairs. The congressman, in fact, has entirely too much and too many things to do. He is burdened not only with a great number of issues which are strictly political, but with numerous problems that are widely divergent in nature and highly intricate in their technical aspects. To be a modern congressman, it seems, one needs to be at the same time a Hercules in mental and physical power and a philosopher-king, as imagined by Plato, in wisdom and knowledge.[1] So that if he errs, he is only human. And if the legislature is groaning under its burden, the reasonable thing to do would seem to be not to abuse the poor animal, but to relieve it of part of its load. Representative decentralization, in other words, is an urgent need in the reformation of the assembly.

Secondly, it is also pointed out that, even without the excessive centralization at the national assembly, the traditional idea of its organization must prove inadequate on account of its failure to provide for the securing of intimate and expert knowledge on the part of the deputies. As a rule, deputies in the general assembly are supposed to be representatives of the " people " of the body politic, but not of some definitely organized groups. The introduction of class elements into the representative body, it has been feared, would bring discord and strife, and thereby annihilate the general will. The aim in the selection of representatives, consequently, has been to create as impar-

[1] Cf. Dr Krabbe's discussion of the legislature of Holland, *op. cit.*, p. 172.

tial and disinterested an assembly as possible, by the careful exclusion of persons belonging to particular classes. Disinterestedness, however, as Dr Krabbe shows, is not the highest ideal of the representative body. Impartiality is often a polite word for sheer indifference. Moreover, since the impartial deputies are neither intimately acquainted with the issues between classes, nor have any genuine interest in them, their decisions must necessarily reveal a certain degree of misunderstanding and arbitrariness. The interests of the people, so far as they are definitely organized, suffer unjustly from inadequate representation.

Thirdly, and perhaps most important, the pluralists apply their general criticism of the theory of the general will concretely to the organization of the assembly. A general will, as we saw, can mean only one of two things. It may mean either a will which expresses the individual as a citizen, or a will which he has as human being. If the assembly represents merely the political will in particular, it must apparently leave many other wills unrepresented. If it represents the individual in everything in general, it can represent him in nothing in particular—which is tantamount to saying that it represents him in nothing at all.[1]

It is by these lines of criticism that pluralists like Mr and Mrs Webb, Mr Laski, and Mr Cole, reach the idea of the functional division and reorganization of the national representative body. According to Mr and Mrs Webb, the future democratic assembly must comprise not one but two

[1] " Parliament ", Mr Cole writes, " professes to represent all the citizens in everything, and therefore as a rule represents none of them in anything." *Social Theory*, p. 108.

parliaments: a "Social Parliament", which represents individuals as members in a "Social Democracy", and a "Political Parliament", which represents them in the capacity of citizens in a "Political Democracy". Such a division is both natural and necessary because, they think, in a national community individuals differentiate themselves into at least four distinct interest-groups: men as producers, men as users of commodities and services, men as political beings, and men as interested in the ethical life of the nation. These four interests are organized into a duality of functions, the economic (or social) and the political. This twofold representative body, then, is to take the place of the existing unitary House of Commons; and, with an electorate similarly divided, it is likely that a maximum of individual freedom will be realized.[1]

Mr Laski agrees with the authors of the *Constitution for the Socialist Commonwealth* in the establishment of two co-ordinate legislative and representative bodies in the national community.[2] He believes that the state has been for a long while mainly, if not exclusively, the representative of the consumers' interests; and that, historically, political power has always been in the hands of those who at one time wielded economic power.[3] With the growth of a large producer-class, however, it becomes necessary as

[1] *Op. cit.*, pp. xvii, 110 ff.

[2] *Foundations*, pp. vii-viii; *Authority in the Modern State*, pp. 88-9. Compare, however, his *Grammar of Politics*, pp. 336-9, where he rejects this view and reverts to the single chamber system.

[3] *Foundations*, p. 238; *Authority*, p. 88.

well as just that the producers' interests should also have a part in social government, not indirectly, but through a representative body of its own. The balance of power between the consumers' and producers' parliament, therefore, constitutes Mr Laski's idea of a pluralistic assembly.

Mr Cole, another important pluralist, also makes the distinction between the function of production and consumption,[1] and proceeds to construct a representative body upon the same principle of balance and co-ordination between two parliaments, one to represent the consumers, elected, like the existing parliament, by geographical constituencies, and the other to represent the producers, elected by industrial constuencies.[2] Roughly, then, the former corresponds to Mr and Mrs Webb's "political" and the latter, to their "social parliament".

Such are the main ideas of the pluralistic reorganization of the representative assembly. The distinctively pluralistic feature, to repeat, is the decentralization of the assembly into a duality of parliaments according to the main lines of national functional divisions; and the decentralization is so complete that these parliaments are related to each other only by co-ordination. In this way, the pluralists attempt to make the representative body to fit perfectly into the pluralistically (i.e. functionally) organized electorate.

The first difficulty which suggests itself to us is that with such a complete division of power in the national assembly,

[1] *Social Theory*, pp. 66-73; *Labour in Commonwealth* p. 212.

[2] *Social Theory*, p. 134; *Self-Government in Industry*, ch. 5; *Labour in Commonwealth*, pp. 212-3.

the chance of deadlock would seem to be very great. Mr and Mrs Webb themselves recognize this difficulty; but they rightly point out that the deadlock is inherent in any bicameral system and should not, therefore, be urged as a special objection against their pluralistic scheme. Furthermore, in an ordinary bicameral system a deadlock between the two houses is usually broken, if it can be broken at all, by deliberation and compromise of joint committees appointed by them; it is reasonable to suppose, therefore, that disagreement between the two pluralistic parliaments could be removed by a similar device. There is, however, a theoretical difficulty which still remains, if we consider the essential difference between a pluralistic and an ordinary bicameral system. The upper and lower houses of an ordinary parliament, although they represent substantially two different strata of citizens, are not regarded as entirely independent of each other, constituting a "house divided against itself", as it were. Moreover, so far as both are supposed to have the welfare of the entire nation for their primary aim and to represent the entire body of citizens, a deadlock between them remains merely a matter of internal procedure, which, as such, does not involve a division in the essential aim of the assembly, nor does it represent a clash between different classes of people themselves. Thus, an absolute deadlock in an ordinary assembly means merely an obstacle in the working of the government; it does not affect the real foundation of the state, the people, or democracy itself. With the pluralistic system, however, the situation is entirely different. The two houses are no longer considered, primarily, as the

representatives of the entire nation, or expected to secure the good of all ; they are to be the representatives of two distinct classes in the community, whose particular interests constitute their fundamental aim. Any dispute arising between them would, therefore, be more than a governmental obstacle. It would imply that two great organized interests are in actual clash. And since each parliament is supreme within its own sphere, the struggle would become an *external* relation between the rival houses. If by negotiation and compromise a final agreement is reached and the deadlock broken, well and good ; but in case a dispute turns out to be insoluble—even though national peace and unity remains materially intact, and the two classes of individuals which the parliaments represent do not come into open conflict—theoretically, the pluralistic democracy is dissolved, at that moment, into its independent component parts.

The suggestion of Mr and Mrs Webb that the chance of deadlock may be diminished by arranging for each representative organ to deal with its own appropriate subjects independently and, as far as possible, completely,[1] does not solve this first difficulty but brings in a second. The matter of the demarcation of the spheres is not so simple as our authors seem to think. To define in an unambiguous manner the proper subjects for each parliament is no easy task ; and even if we succeed, the difficulty of keeping them separate remains. The mediæval theorists thought that they had solved the problem of the relationship between the Church and the state by saying that *sacerdotium* and

[1] *Op. cit.*, p. 12.

imperium were *potestates distinctæ*;[1] but, as Dr Carlyle points out, even as early as the ninth century, Europe was beginning to be convinced that such a theoretically plausible separation of the two powers was impossible in actual experience.[2] The balance of the scale was always being disturbed, turning either toward the Church or the state; and, as we know, the final outcome was the triumph of the latter, which earned for itself the title of "community of all communities". The mediæval distinction between religion and politics is certainly much sharper and more easily made than that between politics and economics, which the pluralists are now endeavouring to separate.[3]

In the third place, even waiving the inherent difficulty of the separation of spheres, the division between the two parliaments made by some pluralists does not completely satisfy us. All the pluralists whose views we have had an opportunity to state above (excepting Mr and Mrs Webb) seem to think that the political parliament does not represent the political function as such, but, really and in the main, the interests of the consumers, or, as Mr Cole prefers to say, "users" of commodities and services. Now this pluralistic division greatly adds to our difficulties. For we have here a division of functions not between the two more or less naturally distinguishable functions of politics and economics, but between two aspects, so to

[1] Johannes Parisiensis (14th century) Goldast, i, ch. 2, p. 108. This same opinion was held by the Church itself, and was fully developed as early as in the sixth century. See Carlyle, *History of Mediæval Political Theory*, i, pp. 177-94; 198; 253-92.

[2] Carlyle, *op. cit.*, i, pp. 257-8.

[3] Compare our discussions of the relations between politics and economics below, chap. 5.

speak, of the same economic function, namely, production and consumption. The questions we may ask the pluralists are, therefore, *first*, whether they recognize politics as a separate and independent function at all; *secondly*, whether it is merely another name for the economic function of consumption; and, *thirdly*, whether consumption and politics are two distinct functions, thrown together into one parliament probably for the sake of convenience.

The third alternative (to take it up first) is hardly possible in face of the fact that the pluralists have more than once deplored the already too heavy burden resting upon the shoulders of the congressman or member of parliament. Furthermore, functional representation demands the independent expression of particular wills through independent representative organs, as the pluralists frequently tell us. If, therefore, politics and the economic function of consumption are two distinct functions, surely they ought on the pluralistic principle, to be kept separate in two independent parliaments. Thus, instead of two parliaments, we may have three: one representing the citizens' interests; the second, the consumers'; and the third, that of the producers. Even if the pluralists think that two are sufficient and three would be too many, the more natural division would be between economics (as embracing both its productive and consumptive aspects) on the one hand, and the political function, on the other.

Nor can the second alternative, that consumption and politics are materially identical interests, be regarded as tenable. That in history those who at one time wielded economic power were also politically dominant is no con-

clusive proof that these two functions are identical. The political concern of the state in national defence and international war and diplomacy has no direct connection with the economic affairs of the community, affairs such as "public utilities", co-operative bargaining, employment of services; it has, at least, no more connection with these than with the interests of a labour union. The only point of similarity between the political function and the consumers' interest seems to be this that both these functions include all members of the national community; that is, in any community, everyone must be a citizen and must use goods and services, while, on the other hand, not everyone is a producer. This distinction, however, cannot be pushed too far. For it holds good only when we take the word "producer" in a technical and narrow sense, meaning only those who belong to the industrial and manufacturing class, or those who render professional services. In a larger sense, however, every citizen and consumer is also a "producer", except those who are really good for nothing and remain completely idle, and perhaps children who are too young to do anything. We may admit, of course, that it is quite proper for the pluralists to use the word "producer" in a narrow sense and conceive the economic parliament as a parliament of workers. But we wish to ask them by what pluralistic reason they can assume that the producer is less of a citizen than the consumer, and that the consumers' interest has a more intimate connection with the affairs of the state than the producers'.

Apparently, we must accept the first proposition and

admit that politics and consumption are two independent functions. But if this is true, we must raise the question : Why is there not to be a separate and independent political parliament which concerns itself with nothing but the strictly political affairs of the community ?—a parliament, as Mr and Mrs Webb say, which represents " the common will of the whole body of citizens, and of the citizens as citizens, not as producers of particular commodities, or as consumers of commodities " ?[1] The authors of the *Constitution for the Socialist Commonwealth* may have not been able to avoid the difficulties of dualism ; they have, at least, given us a more logical and consistent division of social organization than most other pluralists.

These, then, are some of the more important difficulties which must be overcome before functional representation can be accepted as a perfectly workable method of popular government. At this point, we must pass on to show that even if we accept all the principles underlying functional representation, we may still remain political monists ; or that a pluralistic state is not a logically inevitable consequence from the premises of the diversity of social interests and the necessity of functional representation.

It would be helpful to recall the political philosophy of Hegel, the arch-monist. Hegel distinguishes between the state as an ethical whole[2] and the civic community,[3] which roughly corresponds to the economic part of society, namely, to what Dr Krabbe calls the community of

[1] It should be noted, however, that Mr Cole changes his views in his later writings. See our discussions elsewhere in this study.

[2] *Philosophy of Right* (Dyde) § 257.

[3] *Ibid.*, § 182.

interests.[1] In this civic community, two principles are observed. First, there is the principle of individual will as " a totality of wants and a mixture of necessity and caprice ", the individual will, i.e. as particular and diverse Secondly, however, this principle is supplemented by the principle of voluntary organization, which flows from the fact that each individual is essentially connected with other individuals, and that organization is the best means to realize individual wants. The Hegelian civic community, consequently, is a highly organized tissue, within which exists a clear differentiation between a property-owner class (consumers, the pluralists would say) and an industrial class (producers). Society, therefore, " is not a number of atoms gathering together merely for a particular and momentary act without any further bond of union, but a body systematically composed of constituted societies, communities, and corporations ".[2]

With such a conception of social organization it is natural that Hegel should severely criticize the French system of centralization. " This *régime* ", he writes, " was introduced by the French Revolution, developed by Napoleon, and in France is found to this day. But France, on the other hand, has neither corporations nor communes, that is to say, the sphere in which particular and general interests coincide. In the Middle Ages this sphere had acquired too great an independence. Then there were states within the state, who persisted in behaving as if they

[1] *Modern Idea of State*, pp. 213-20; 226.

[2] Hegel, *op. cit.*, §§ 303, 308. Cf. Cole, *Labour*, pp. 41-2; Figgis, *Churches*, pp. 70, 86-90.

were self subsistent bodies. Though this ought not to occur, yet the peculiar strength of states lies in the communities. . . . For some time past the chief task has been that of organization carried on from above; while the lower and bulky part of the whole was readily left more or less unorganized. Yet it is of high importance that it also should be organized, because only as an organism is it a power or force. Otherwise it is a mere heap or mass of broken bits. An authoritative power is found only in the organic condition of the particular spheres."[1]

On the other hand, Hegel emphasizes the fact that "the state is the whole, articulated into its particular circles, and the member of the state is the member of a circle or class."[2] The idea of universal representation (to use a pluralistic term), therefore, belongs to the absurdity of "abstract thinking". He insists that we must abandon the widespread idea that "since the private class is in the legislature exalted to participation in the universal business, it must appear in the form of individuals, be it that representatives are chosen for this purpose, or that every person shall exercise a voice. But even in the family this abstract atomic view is no longer to be found, nor in the civic community, in both of which the individual makes his appearance only as a member of a universal. As to the state, it is essentially an organization, whose members are of independent spheres, and in it no phase shall show itself as an unorganized multitude. The many, as individuals, whom we are prone to call the people, are indeed a collective

[1] *Op. cit.*, § 290, addition.
[2] *Ibid.*, § 308, note.

whole, but merely as a multitude or formless mass, whose movement and action would be elemental, void of reason, violent, and terrible."[1]

Naturally, Hegel is in favour of a system of functional or class representation. Although he retains the bicameral scheme (the upper house, namely, is not to be abolished), he insists that the lower house should be so organized that it contains deputies of all the associations, thus becoming not a unitary chamber, but really "assemblies of the classes".[2] The meaning of such a class representation is twofold. In the first place, it implies the supplementation of territorial election by direct election from the interest-constituencies, and secondly, the idea of the assembly is changed from the representation of individuals to that of objective interests. "Deputies from the civic community", he writes, "should be acquainted with the particular needs and interests of the body which they represent, and also with the special obstacles which ought to be removed. They should therefore be chosen from amongst themselves. Such a delegation is naturally appointed by the different corporations of the civic community (§ 308) by a simple process, which is not disturbed by abstractions and atomistic notions. Thus they fulfil the point of view of the community directly, and either an election is altogether superfluous, or the play of opinion and caprice is reduced to a minimum."[3] The delegates from the various branches of the civic community, therefore,

[1] *Ibid.*, § 303, note.
[2] *Op. cit.*, § 319.
[3] *Ibid.*, § 311.

should not be regarded as representatives of separate individuals, but of the spheres of interests which these branches definitely embrace. In this way " representation no longer means that one person should take the place of another. Rather is the interest itself actually present in the person of the representative."[1]

Here, then, we find a curious coincidence of Hegel's views with those of the so-called pluralists. In fact, Hegel seems to agree almost entirely with the pluralists in the question of functional representation: he recognizes the diversity of human interests, the multiplicity of social organization, the impossibility of representing the concrete individual in an abstract general will, and lastly, the need of intimate and expert knowledge on the part of the deputies. But from this point on Hegel differs from the pluralists radically. He is not carried into pluralism by his concrete thought, but pushes his conclusions in the opposite direction. Functional representation is to him not the essence of the ethical state, but merely a necessary element, so to speak, in a profound monism. For we must not forget that the civic community, in which the manifold corporate interests exist, is, after all, not the whole of society, but a part of the Hegelian state. The state, on the other hand, is no mere consumers' association, nor even a mere political function. It is the ethical unity which binds all sides of

[1] *Op. cit.*, § 311, note. Cf. Mr Cole: " It is impossible to represent human beings as selves or centres of consciousness; it is quite possible to represent, though with an inevitable element of distortion which must always be recognized, as much of human beings as they themselves put into associated effort for a specific purpose. What is represented is never man, the individual, but always certain purposes common to groups of men." *Social Theory*, p. 106.

social organization into an actual system of freedom.[1] It is not our purpose here to determine in any final way the relative truth of the political philosophy of Hegel and of the pluralists. We hope, however, that our brief discussion has made it clear that the argument for functional representation as such does not of itself constitute a proof for pluralism. On the contrary, it may be used in support of a very thorough-going and profound type of monism toward which the present pluralistic theory itself tends finally to develop, as our subsequent discussions will show.

(C) *The Party System*

With a decentralized assembly and a functionally divided electorate, which the pluralists advocate, it is certain that the traditional idea of the party system must also undergo some important modifications. Parties, so Bryce thinks, have among their main functions, first, the promotion of party principles ; secondly, the carrying of elections ; and thirdly, the holding together of members in the assembly who profess homogeneous political opinions upon certain general issues.[2] Parties, therefore, act as a sort of connecting link between the two sides of representative government : they afford an effective machinery to help the people in national elections, and, on the other hand, provide a means to organize the delegates in the assembly so that public opinion may receive a further definite and

[1] *Op. cit.*, §§ 301, 307, 314, 319.

[2] *Modern Democracies*, i, pp. 113, 115 ; cf. Burke, *Works*, i, p. 530.

conscious form. The party is, in short, an organizing force in the representative system.

But while the fundamental idea of the party thus stated is reasonable and sound, its method of organization, the way in which party lines are actually drawn, has not, from the viewpoint of the pluralists, reached any appreciable degree of perfection. In the first place, the pluralists would point out that the usual large-party organization, as found in England where the national line of party division is between the Conservatives and the Liberals and in the United States where the Republicans and the Democrats virtually control the entire representative machinery, does not seem to afford the possibility of a full expression of the opinions and sentiments of all sides of the community. In England especially, according to Mr and Mrs Webb, the Liberals and the Conservatives together do not really represent the complete range of interests in the English democracy.[1] These two parties, to be sure, represent fairly well the upper and middle class electorate, the interests of the land- and property-owners ; they ignore, however, the interests of a great mass of wage-earner electors, interests which are thus deprived of the right of legitimate expression in the assembly. It was not until the appearance of the third party, the Labour Party, which voices the interests of the " unprivileged " class, when this evil began to diminish in its intensity. The third party idea, the pluralists may say, indicates the gradual recognition of the fact that the traditional two-party system fails to represent the complete will of the nation in all its

[1] *Op. cit.*, p. 83.

aspects. The third party, therefore, is a first step to concrete democracy. The day will come when there will be a fourth party and a fifth party, and, in fact, as many parties as a truly popular government demands under actual circumstances.[1]

In the second place, the pluralists suggest that, with the functional re-division of the assembly and the electorate, party lines must of necessity be redrawn upon a similar functional basis. The existing method of party organization is not only indistinct but unjust. Party difference has been held by some to be merely a matter of general political attitude and temperament.[2] To be a Conservative, therefore, means that one has an unfailing aversion to change and a love for order; and to be a Liberal that one must fight against the desire to preserve the *status quo* as such. It is true, indeed, that Conservatism may connect itself with certain specific issues and Liberalism with certain others. The English Conservatives, for example, upheld the Established Church and had a special regard for the landowners' interests. The Liberals, on the other hand, were quite serious in introducing land tax bills, and in 1912, a bill for the disestablishment of the Church in Wales. Yet Established Church and Landed Interest as such do not have any real connection with either Liberalism or Conservatism. Moreover, these two great English parties, like most all great parties in other countries, do not limit

[1] The present tendency, however, is toward the two-party system.

[2] Courtney, "Party Government", in Rhys (editor), *The Growth of Political Liberty*, pp. 285 ff.

their attention to any specific interests. They claim, on the contrary, to concern themselves with the welfare of the nation as a whole.[1] Such a wide claim furnishes a justification for taking up all sorts of divergent issues; in the United States, especially, the platforms of both the Republican and Democratic parties during any election campaign usually embrace a strikingly extensive list of things—from participation in international affairs to prohibition, the tariff, and farm betterment. The party-politician must, therefore, like the modern member of parliament, possess remarkable intellectual capacity. Such a heterogeneous combination of national and international issues in each party must, indeed, appear more than puzzling to the average American voter. He may frequently find that some of his desires are expressed in the platform of one party, and others in that of the opposing party. A person, for example, may be convinced that the United States should join the World Court, and yet believe that his own interests are best promoted by a high tariff. Under such circumstances he is compelled to sacrifice at least part of his interests, whichever way he votes.

A functional reorganization of the parties, the pluralists maintain, would simplify matters for all—for both the party-politician and the voter. Instead of allowing two national parties to antagonize each other on all sorts of

[1] M. Michels writes: "Political parties, however much they may be founded upon narrow class interests, however evidently they may work against the interests of the majority, love to identify themselves with the universe, or at least to present themselves as co-operating with all the citizens of the state and to proclaim that they are fighting in the name of all and for the good of all." *Political Parties*, p. 16.

questions, there should be many parties, each to represent a specifically organized interest, and to concern itself with naught but the issues involving this interest. There, consequently, must be as many such parties as there are nationally organized interests. This idea of party organization, tends, of course, toward the creation of a multitude of minor parties within the national community, as in France. The coalition and combination of such will constitute the chief tactics of party politics, a thing which the French party-man perfectly understands. Naturally, the minor parties will group themselves together according to some broad lines of demarcation ; parties representing similar interests will arrange themselves in a united front against their common party rivals. Thus, in the Socialist Commonwealth as visualized by Mr and Mrs Webb, the parties championing causes of the various economic-industrial interests will naturally be regarded as one large party-group, operating its machinery within the limits of the " social democracy ". Whenever circumstances demand, they will unite themselves into one solid system to struggle with the opposing parties, namely, those which control the " political democracy ".[1]

[1] It may be noted that parties organized upon the basis of special interests are not an untried experiment. Some excellent examples are found in the United States. Immediately after the end of the Civil War, there arose a minor party with the limited and definite purpose of securing a large issue of paper money. The " Greenbackers ", as they were called, held a National Nomination Convention in 1876, at which nineteen states were represented, in open opposition to both the Republicans and Democrats. They again put forward candidates in 1880 and 1884, but, for reasons which do not concern us here, this unique party gradually disappeared. Another American example is found in the Prohibition party, which took its origin as early as 1872. Most of the Prohibitionists saw,

Such a pluralistic transformation of the party system is not without apparent difficulties. Mr and Mrs Webb have pertinently suggested that functional party organization works well only when the representative assembly is also functionally divided. They are convinced that while the English Labour Party has done good work in uniting its four million members into a homogeneous political force, it is not without a serious defect in its machinery. In too many instances, we are told, it has placed the selection of parliamentary candidates on a merely vocational basis. There is, consequently, an undesirable predominance of vocational representatives over non-vocational ones in the parliament. Hence, they continue: "Whatever may be urged in favour of the choice of a representative actually because he is a miner or cotton spiner, to an assembly having to deal with mining or cotton spinning, it is plain that there is a loss when what is in question is the Democracy of Citizens—when the choice is of members of an assembly having to represent the interests of the community as a whole—if the members elected represent, not so much those aspirations and desires which the

however, that the shortest way to achieve their end was to ally themselves with one of the two great standing parties. The number of pure Prohibitionists, who were not members of either party, consequently, was very small. We may also mention the Farmers' Alliance Party, the "Populists", and recently the "farm block". Although this latter is not an independent party, it shows admirably the tendency of special interests to consolidate themselves in order to gain a better chance of victory in national party warfare. See Bryce, *American Commonwealth*, ii, pp. 42-7; cf. Holcomb, *Political Parties of To-day*, ch. 4; Brooks, *Political Parties and Electoral Problems*, p. 14.

citizens have in common, as those peculiar to a particular industry. The place of the vocational representative is where the affairs of his vocation are dealt with."[1]

Although we accept Mr and Mrs Webb's contention that vocational representatives should concern themselves with vocational issues, and that the parties in the "social democracy" must not overstep their limits and extend their activities into the "political democracy", we are not sure than a functional division of the assembly would guarantee an easy functional division of parties, especially a limitation of the parties in the "political democracy" to strictly political issues. Precisely because the "political democracy" represents "the interests of the community as a whole", to use their own words, the parties in that democracy must also direct their attention to issues which touch the interests of the community as a whole. Inasmuch as all particular interests are parts of the general interest, or, at least, have direct and indirect bearings upon the general welfare, they are, upon Mr and Mrs Webb's own showing, legitimate items in the platforms of these parties. Let us suppose that Mr and Mrs Webb's scheme of two parliaments were actually adopted and a number of national vocational parties appeared, among them a national manufacturers' party and a national farmers' party; let us suppose that the tariff question became a vital issue between these two parties, and that the manufacturers' party won and obtained a majority in the "social parliament". The defeated farmers' party would naturally seek to protect its interests; having lost the "social

[1] *Op. cit.*, p. 86; cf. pp. 309-16.

democracy" election, it would try to obtain satisfaction in the "political democracy" election. (We remember that every producer is also a citizen and is entitled to vote in the "political democracy".) Now, since the tariff question concerns not only the producers but every citizen as a consumer, it would be legitimate for the "political democracy" parties to consider this question. The manufacturer-majority, on the other hand, would be likely to accept the challenge of the farmer-minority and join in renewing the tariff contest in the "political democracy" election. In this way, the "political democracy" would offer a final battle-ground for the warring vocational parties to reach a final decision. It must not be thought that simultaneous elections in both democracies would prevent this difficulty; for there is every reason to suppose that any particular social-interest-party would perceive the advisability of making an alliance with some strong party in the "political democracy".

Our conclusion is, then, that functional party organization cannot supplant the traditional party system.[1] The vocational parties must, as Mr and Mrs Webb have wisely insisted, limit themselves to the consideration of vocational issues; the political parties, on the other hand, cannot limit themselves to strictly political issues. As parties which concern themselves with the interests of the whole,

[1] M. Fournière, however, does not accept this view. He thinks that the party system is an integral part of the monistic state and will eventually disappear when society is completely functionalized. "With the coming of the associations", he says, "as the representative organs of the individual as multiplicity of specific purposes, the old parties should have no more *raison d'être*." *L'individu, l'association, et l'état*, pp. 247-8.

they must reconsider what the vocational parties have considered, and, on that account, must remain superior in their authority. The pluralists, therefore, offer us some very interesting ideas of the transformation or improvement of the party, but fail to construct a real pluralistic party system in which a perfect balance of functions is maintained.[1]

[1] Most pluralists have very little to say on the question of party organization in the pluralistic state. Yet this seems to be such an important problem in any theory of politics that the writer has ventured to discuss it here at some length, seeking as best he could to present the pluralistic teaching on this subject. It is very likely that some unintentional errors and misinterpretations have crept into his account.

CHAPTER IV

ADMINISTRATIVE DECENTRALIZATION

We have had occasion, in the preceding chapter, to call attention to the over-centralization of business in modern democratic legislative bodies ; the same condition exists no less apparently in the administrative department of the government. To some reformers there seems to be a law of administrative " diminished return ", which implies that centralization has a definite efficiency-threshold, beyond which it results only in inefficiency and waste. To others the present centripetal tendency reveals not merely inefficiency, but is symptomatic of some disease in the political system. " With centralization ", M. Lamenais declares, " you have apoplexy at the centre and paralysis at the extremities."[1] In either case the imperative need of decentralization is insisted upon.

With this demand for decentralization the pluralists are, of course, in general sympathy.[2] We may distinguish, however, two general types of decentralization, namely, territorial and functional, and shall attempt to explain briefly the pluralistic significance of both these types.

The most important instances of territorial decentraliza-

[1] Quoted by Buel, *Contemporary French Politics*, p. 383.

[2] See Laski, *Foundations of Sovereignty*, pp. 30 ff, 240 ff ; Figgis, *op. cit.*, ch. 2 ; H. G. Wells, " Administrative Areas ", Appendix to *Mankind in the Making*.

tion are found in the writings of the Distributists in England[1] and of the Regionalists in France,[2] the fundamental idea of both these groups of reformers being essentially the same. They all accept the more or less axiomatic truth that division of labour lightens an otherwise heavy task, and that local differences of social conditions require different administration of public services. Hence they conclude that a devolution of power from the central government to local self-government is imperative. Their motives and programmes of procedure, however, widely diverge. English Distributism, as Mr. Coker summarizes it, demands a twofold political reform along economic lines: (1) individual ownership of property as the sole guarantee of social freedom and (2) voluntary co-operation and self-management of small communities of property owners as the means to prevent a concentration of political power at one single remote point.[3] Obviously, the real aim of this movement is primarily economic; administrative decentralization is merely a means to an end. The proposals of the French Regionalists, on the other hand, are made with a view to preserve local self-government against the encroachment of a distant central authority, which has been a tradition in France both before and since the days of the Revolution. Decentralization, however, does not consist in a general restriction of the functions and powers of the central government, which would mean the

[1] Of whom Mr H. Belloc is the leader. See his *Servile State*.

[2] MM. P. Deschanel, J. Hennessy, and A. Ribot are among the well-known Regionalists. See Buel, *op. cit.*, pp. 394 ff.

[3] *Am. Pol. Sc. Rev.*, 15: 197-8.

restoration of the old doctrine of limitation, but in a redistribution of administrative areas so that these may become real units of local feeling and economic existence, capable of self-direction. The Regionalists demand, in other words, not less government, but more local autonomy.

An example of something like a functional decentralization is found in the United States as early as 1917.[1] Professor W. W. Willoughby views the whole process of administration as a scheme of delegation of power from one central source to its various agents, and finds certain serious drawbacks in the existing plan, in which the agents receive only limited and definitely specified powers of execution. They are, in this way, nothing more than tools of this delegating authority; any independent exercise of intelligence, creativeness, or initiative activity would easily lead them into acts which are *ultra vires*. Instead, Dr Willoughby suggests that a different type of delegation of power be adopted, so that appointments of agents may be made not merely with a mandate to execute certain definitely prescribed acts, but with very general discretionary powers to take charge of some problems, the details of which are not defined beforehand. The agents, therefore, are quite independent of the central authority, free from its interference, and responsible to it only in the final results of their commission. In this way, he thinks, not only a good deal of administrative congestion at the central government can be ameliorated, but even an increase in adminstrative efficiency may come as a result. It is clear, therefore, that

[1] W. W. Willoughby, "The National Government as a Holding Corporation", *Pol. Sc. Qtly.*, 32: 505-21.

while Dr. Willoughby does not call special attention to the advantages of the division of federal power into smaller local units—since such a division already exists in the United States—he criticizes the present centralized system by recommending a devolution in terms of special administrative problems.

A much more radical movement in the direction of functional decentralization is made by the French administrative syndicalists[1] whose views we must clearly distinguish from those of the industrial syndicalists. Unlike the syndicalists, they do not concern themselves with the labour class, although their programme of administrative reform, as we shall presently see, is an application of the general syndicalist doctrine. That such a radical decentralization movement should appear in France is natural enough, since it is in this country that the best and the worst of governmental centralization has been experienced during many years. It has long been a tradition in France that all administrative power should be concentrated under the heads of the various departments in the Paris government, to which all subordinates are tools or puppets without their own will and intelligence coming into play. Much abuse inevitably results from such a system,[1] and the only remedy seems to lie in a new *régime* of thorough-going decentralization. On the one hand, the administrative syndicalists demand that since each public service has its

[1] For a brief account of this movement, see Buel, *op. cit.*, pp. 340 ff.; for views of prominent administrative syndicalists, see Leroy, *Pour gouverner;* Lysis, *Vers la démocratie nouvelle;* Paul-Boncour, *Les syndicats de fonctionaires.*

[1] Laski, *Authority in the Modern State*, pp. 321-87.

own peculiar problems and technique to consider, it must be free from the direct control of the central authority and granted the right of self-management. On the other hand, they accept the general principles of syndicalism, urging that civil servants should be placed upon the same status as that of ordinary industrial workers. The same codes of conduct commonly recognized in the industrial realm—including the practices of union and strike—should be applied also to the civil service.

The first phase of this French decentralization movement is quite in line with the ideas of Mr Willoughby, namely, that there are many advantages in giving governmental agents a great amount of responsibility, initiative, and free exercise of technical knowledge. It is the problem of governmental efficiency as such, therefore, that the French administrative syndicalists are here concerned to solve. In the second aspect of their decentralization programme, however, we notice not only a widely different motive from the first, but a much more radical transformation of the governmental organization itself. The administrative syndicalists are interested in the rights of governmental employees no less than in governmental efficiency. In vindicating the rights of this class, they do not hesitate to demand a drastic reduction of the power and dignity of government to make it a safe master for its "servants". Their general arguments, though somewhat unconventional, are not difficult to follow. They point out that since the increase in the economic and industrial functions of the government, the state itself has become an economic-industrial organization, which, as such, should be subject

to the rules and codes of the industrial system. The relation of the civil servants to the government, therefore, should be regarded as essentially the same as that between industrial employees and their employer, a relation, we might add, of contract and not of subordination. Hence, government agents, like industrial workers, should have the right to form professional associations, to " unionize ", to strike when circumstances demand, to enjoy self-management in matters entrusted to them, and, lastly, to be free to promote the welfare of their own class and the conditions of their service. The government, on the other hand, should not exercise unlimited authority over its agents. A legal code should be recognized to which both the government and its agents are equally subject. In short, governmental authoritarianism is to be abolished even in its own internal organization and management.

These, then, are the four varieties of administrative decentralization which have recently appeared. It must be at once clear that no matter how radical the ideas of the Regionalists and Distributists may seem to be, territorial decentralization not only fails to touch the root of state-authority, but, as Mr and Mrs Webb[1] point out, offers only a partial solution of the problem of governmental efficiency. The real evil lies deeper than in territorial concentration ; its remedy must be sought elsewhere. The suggestions of Mr Willoughby, while not primarily territorial, would certainly not satisfy Mr and Mrs Webb, or any pluralist. For his decentralization stops with a new method of delegating the central authority, which itself

[1] *Op. cit.*, pp. 131-4 ; 214 ; 224.

is left unquestioned. The demands of the French administrative syndicalists possess, indeed, a much more radical meaning than any of the preceding three movements. In their insistence upon the autonomy of the civil service as an independent class, their recognition of the state as an industrial organization, and their substitution of the relation of contract for that of subordination between the government and its agents, they seem to have come very near to the position of the pluralists. We must remember, however, that it is necessary to distinguish two aspects of this movement, that is, administrative syndicalism as governmental reform and as the vindication of the rights of civil servants. It is the former aspect which identifies it with the general decentralization tendency. Taken in that light, the French reformers are in theory no more radical than Mr Willoughby.

That governmental decentralization, in whatever form it may appear, does not necessarily imply a pluralistic theory of the state can be made plain in a few words. Here the distinction between state and government, the sovereign power itself and its organ of execution, is important. Decentralization as a re-distribution and devolution of governmental power has no necessary effect upon the nature and the integrity of sovereignty (to use a convenient term) itself. Indeed, no matter how many agents are created, however large and free shares of administrative power they are given, however loosely they are controlled by the government—we may even go quite far in the functional direction and allow more or less autonomous administrative commissions to exist—so long as an ultimate delegating

authority is not denied, to which all these administrative autonomies are finally responsible, we are still adherents of the traditional monistic theory of the state and sovereignty.

We do not deny, of course, that most pluralists incline toward decentralization. Yet it may be pertinent to point out that there seems to be no inseparable bond between pluralism and administrative decentralization. The real ground upon which all arguments for decentralization rest is that it is the only means by which the congested condition of centralized administration may be ameliorated. But with the realization of a " pluralistic state ", in which all departments of human affairs are independently managed by separate " democracies ", such a congested condition would naturally disappear. The necessity of devolution would be no longer urgent. It may be said that in such a state decentralization really exists in the functional division of powers. Remembering, however, that the pluralistic functional division is not primarily administrative but aims to effect a fundamental division of the state and sovereignty itself, it would be more accurate to call it " pluralism " than decentralization.

CHAPTER V

PLURALISM AS A SOLUTION OF THE PROBLEM OF THE RELATION BETWEEN ECONOMICS AND POLITICS

We now come to the last and perhaps the most interesting phase of pluralism, namely, its economic phase, in which it offers a solution of the persistent problem of the proper relation between the economic and political functions in human society. In order fully to understand how the pluralistic solution differs from all previous attempts, and in what ways it is connected with these, we must go to the history of Western political-economic thought, from Aristotle, who first stated the problem, down to the present time. We note three stages in this development: first, a period of *political monism,* which seeks to subordinate economics to politics by conceiving the latter in a comprehensive ethical sense. Secondly, in the course of the economic evolution of Western society, this political monism is opposed by a subsequent *economic monism,* which demands an economic domination of social organization. Thirdly, in more recent times, a solution has been sought in a balance of power between economics and politics; both political and economic monism are transformed and we are led to a *pluralism.* We shall devote a large part of the present chapter to a study of this historical process.

(*A*) *Political Monism*

Philosophical Solutions

The importance of economic wealth as a powerful factor in human society was recognized at a relatively early time in the West. Indeed, it was Aristotle who first distinctly regarded wealth as an element of the state ;[1] in his *Politics* we find many passages which may be dignified as the beginnings of the science of political economy. With Aristotle, however, wealth takes on a different meaning from the modern conception of it. The acquisition of property, which includes live-stock, husbandry, exchange, and barter,[2] he thinks, is merely a means to live and not necessarily a means to live well.[3] However important the economic function may be for the individual and for the state—for a state is often as much in want of money and of such devices for obtaining it as a household, or even more so—since the sole aim of the state is the ethical well-being of man, the economic function as such must be placed in a subordinate position in social organization. The whole essence of Aristotle's political economy, consequently, does not consist in finding out how to increase the economic power of the state or its individual citizens ;

[1] *Politics* (Jowett), ii, ch. 7, § 16 ; iv, ch. 4, § 15 ; vii, ch. 8, §§ 7, 9. It may be noted here that Plato also understood the significance of wealth in politics. But instead of proposing a positive solution, he resorts to the negative one of taking economics out of politics, namely, in his communistic scheme for the ruling class. Plato's communism, on this account, is not an economic doctrine ; it differs widely in its intent from modern communism. Cf. Nettleship, *Lectures on the Republic*, pp. 168-70.

[2] *Politics*, i, ch. 11, §§ 2-5.

[3] *Ibid*, i, ch. 9, § 16.

its aim is really to discover how to utilize wealth for the advantage of the state. Economics, therefore, exists only for the sake of politics. The entire problem of their relationship must be considered as satisfactorily solved when a device is found by which a happy subordination of the former to the latter is effected.

Aristotle's solution can be stated in a few words. Political stability, he teaches, depends upon an economic equilibrium, and this latter can best be secured by a middle-class rule of the state;[1] or, in other words, by placing the political power in the hands of those who are economically most stable. This, of course, does not mean the rule of wealth; on the contrary, it simply indicates to the sagacious statesman that the ethical purpose of the state cannot be fully attained unless the material welfare of political society is secured. The state, then, is the end to which the entire economic system must subordinate itself.

Aristotle has had many followers; and in James Harrington, particularly, we find his doctrine of political economy worked out in a specific and definite form. Harrington accepts Aristotle's conception of wealth in general, and makes concrete application of it to land ownership in order to meet certain existing conditions in England.[2] He believes in the wisdom of "middle-class rule" and points out that in an agrarian country a substantial and large landed class should be the aim of all sound governments.[3]

[1] *Op. cit.*, ii, ch. 7, §§ 2-6; iv, ch. 11, §§ 8-15; ch. 12, § 4; v, ch. 8, § 14.

[2] *Oceana*, published 1656 and dedicated to Cromwell; Morley edition, 1887; see Smith, *Harrington and his Oceana*, chs. 1, 4, 6.

[3] *Oceana*, pp. 15-25.

Not, again, in order that the land owners may rule ; but because it is through economic stability, as Aristotle had already shown, that political stability is maintained. For Harrington, too, is not interested in promoting the power of the landed class as such ; his scheme of the " equal agrarian ", by which a more or less even distribution of land is maintained, aims at the good of the political whole rather than at that of one class. It is in this sense, then, that we may regard both Aristotle and Harrington as political monists, thinkers who offer a political interpretation, so to speak, of social organization. Politics, to them, embraces the whole meaning of communal life ; and economics, the system by which the necessities of life are fulfilled, must be regarded as a means instead of an end, as a part of the political function rather than as a function independent of politics.

Political monism, however, lost its hold in Western theory. A little over a generation after the publication of the *Oceana*, Locke's *Two Treatises* made their appearance,[1] in which property is regarded not merely as an important means to political well-being, but an end in itself. " The great and chief end, therefore ", he says, " of men uniting into commonwealths, and putting themselves under government, is the preservation of their property."[2] This single sentence shows how far a cry it is from Aristotle to Locke. Like Aristotle, indeed, Locke still conceives of property as simple possession ; although for the latter it

[1] Published in 1690.

[2] *Treatise*, ii, ch. 9, § 24 ; ch. 1, § 3 ; cf. our discussion of the underlying ethical significance of Locke's theory, below, ch. ix.

is a possession not of economic goods alone, but of "life, liberty, and estates". Yet such an extension of the meaning of property, no matter how substantial the extension be, is non-essential for our purpose. So long as we regard economic wealth as an integral part of property, which is the ultimate aim of all political organization, and so long as we consider the state as a kind of mutual insurance society instituted to preserve property, we must inevitably conclude that economics is above politics and that all government exists for the sake of property. Political power, to be sure, need not always be in the hands of the economically dominant class; but since the state derives its *raison d'ètre* from the protection of property, it is economics and not politics that rules political organization. Here, then, we naturally encounter the doctrine of governmental limitation, of the separation of powers, which means the abandonment of the broad conception of the state, which we have, for our present purpose, conveniently called *political monism.*

While Locke has presented to us an entirely new and interesting solution to the problem of the relation between economics and politics, there is one side of his solution which he has not fully developed. Although he is correct in his view that since government is *for* property, it must be limited so as not to submerge property, he fails to recognize that it is also necessary that government should be *by* property. For, if (as he says) political power is the instrument of economic wealth, would it not follow that, in order to make it safer and more efficient, we must entrust government to the economically powerful? Property, indeed,

includes more than wealth. But is it not clear that while everyone possesses life and the right of liberty, not everyone possesses the same amount of wealth—some persons, perhaps, none at all ? Would it not be an injustice, therefore, so far as the economic function is concerned, to allow everyone an equal share in government ?

Logically, then, if government is for property, it must also be by property. Adopting the Lockean conception of the state, a property-qualification in democratic government is indispensable. Indeed, what Locke had not denied but what he had himself not made clear was later unambiguously declared by Daniel Webster on the other side of the ocean. In a speech delivered in the Constitutional Convention of 1820, he says : " Those who have treated of natural law have maintained, as a principle of that law, that, as far as the object of society is the protection of something in which the members possess unequal shares, it is just that the weight of each person in the common council should bear a relation and proportion to his interests " ; and, " if the nature of our institutions be to found government on property, and that it should look to those who hold property for its protection, it is entirely just that property should have its weight and consideration in political arrangement ". Webster, in other words, here draws the logical consequences of Locke's view and enunciates the principle of government by property.

It seems true, therefore, that Locke's breach with classical political monism creates a paradox in democratic government, if we consider intrinsic equality as an essential element of democracy. Aristotle, to be sure, would not

insist that every citizen should possess an equal share of wealth, nor that the rich and the poor should participate equally in government. Actual political inequality, however, is of no theoretical consequence so far as we conceive of the state as something which represents the inherent dignity of man, his complete ethical nature : each person, as " political animal ", standing on equal ground with every other. Economic inequality, in this case, does not vitiate political equality because economics, not being the supreme end of social organization, is subordinate to politics. With Locke, on the other hand, the case is different. Since wealth is an integral part of the political end, inequality of wealth must necessarily imply, as we have just shown, a fundamental political inequality. The Lockean conception of the state, therefore, leads logically to an oligarchy of wealth, and not to a genuine democracy. And, furthermore, even if we grant the justice of a state in which political inequality is founded upon economic inequality, such a state, we fear, would do great violence to Locke's own conception of property. For since property includes life and liberty as well as estates, and since it is plain that everyone is equal in life and liberty but not in estates, how can we justify or explain that it is democratic to deprive a person who possesses no wealth of a part of his civil liberty and perhaps of all his political liberty which he, as free person, should possess in equal share with all other free persons ?[1]

[1] The writer wishes to acknowledge the many valuable suggestions which he receives from Professor Charles A. Beard's volume, *The Economic Basis of Politics.*

In spite of all its difficulties, however, Locke's anti-Aristotelian political philosophy has long prevailed in the West. The " insurance-company conception " of the state obscures the ethical-political conception, and an anti-political monism finally transforms the state as the supreme community into the state as property.

(*B*) *Economic Monism*

Socialistic Solutions

Anti-political monism, however, is merely a transitional stage and is destined to be short-lived. The state as property, which Locke and his followers sought to establish, has come to be regarded with hatred by their enemies as capital. In *socialism* we have not merely an anti-political monism, but an effort to set up the direct opposite of the political form : *economic monism.*

The actual historical process which has led to socialistic thought may be stated in a few words. Two generations after Locke published his famous *Treatises* Watt constructed his steam-engine, which started the wheel of the Industrial Revolution rolling in England. By 1800 the change of industry from the small-scale production of the craftsman to large-scale factory production was well under way. The same thing happened shortly afterward in America and in other European countries, and brought about two far-reaching changes in Western social organization. In the first place, the appearance of the factory-industry caused a constantly growing difference in wealth between two

classes, the capitalist and the labourer. In the second place, owing to the rapid accumulation of wealth, the economic function gradually acquired a consciousness of its own power, and tended to emerge as an independent and distinct social force. In modern society persons are no longer merely "political beings"—to use Aristotle's term in a narrow sense—they are capitalists, labourers, consumers, and producers as well as citizens of the state.

It was the rapid growth of the capitalist class that directly brought about the transformation of property. By its peculiar methods of exploitation the capitalist class was able to accumulate enormous wealth at the expense of the labour-class. Property, therefore, is no longer the simple possession of goods and estates, as the ancients and Locke understood it.[1] It becomes capital. The transformation of property, however, necessitates a transformation of the political organization. For, if the state existed for the protection of property, it should have no meaning for those who possess no property. If government was by property, as Webster suggested, the "unprivileged" proletariat can have no status other than that of the Athenian slave. In this way, the state has come to mean tyranny and oppression, the instrument of economic injustice. This is not all. The new economic force which has emerged in the form of capital actually sought an alliance with political force; by a stroke of clever strategem capitalists and government joined hands, Webster's idea of government

[1] According to Marx, property as conceived of by the said classical philosophers no longer exists after capital arrived. "The capitalist mode of production and capitalist property are the first negation of the individual property founded on a man's labour." *Das Kapital*, i, p. 793.

by property was realized, and the modern "capitalist state" was born.

It was with such a background, then, that the socialists raised their protest. Against political monism, socialism argues that economics and not politics should be the sole objective and the controlling force of social organization; and because the political state has been found to oppress the economic class of the producers, some socialists conclude that the state with its political power must be abolished. Against Locke, it points out that while he is right in regarding the economic function as the real aim of civil society, he has failed to distinguish between two aspects of this function: consumption and ownership, on the one hand, and production on the other. As a consequence, he mistakenly suggested a domination by the capitalist class. Socialism, therefore, demands a complete political as well as economic reorganization in order that the economic function of production may rule and an *economic monism* may realize itself.

While we cannot here go into the history of socialistic thought, we must attempt to show briefly, in the various important stages of its development, how this economic monism evolves as a protest against political monism.[1] The "Utopian Socialists", to begin with, among whom we mention Owen, Fourier, and Saint Simon, the "fathers" of socialism, were comparatively vague in their conception of the relation between economic and political power, and

[1] For general history and exposition of socialism, see Engels, *Socialism: Utopian and Scientific*, 1892; Ensor, *Modern Socialism*, 1907; Kirkup, *History of Socialism*, 1909; MacDonald, *The Socialist Movement*, 1911; Spargo, *Socialism*, 1919; Beer, *History of Socialism in England*, 1920.

were naturally indifferent to the latter.[1] With Marx and Engels we come to the second stage of socialism,[2] at which attention is focussed upon the state itself.[3] If, they reason, the state has been a powerful capitalist tool,[4] why could it not be used also as an efficient instrument to bring about the socialist revolution? And if the economic function is to rule society, would it not be necessary that it first conquer politics, the present ruler of society? In this way, socialism regards itself as an enemy of the existing political organization.

The acquisition of political power by the economic class, therefore, would (according to the Marxian socialists) bring about the downfall of the state and the triumph of the labour-class. It is here that the monistic thought in Marxism, developed by means of the Hegelian dialectic logic, becomes most apparent.[5] "The proletariat seizes political power", Engels declares, "and turns the means of production into State property. In doing this, however,

[1] Owen, *The Book of the New Moral World*, Amer, ed., 1845; *The Evolution of the Mind and Practice of the Human Race*, 1849; *A New View of Society*, 2nd ed., 1815; Fourier, *Oeuvres completes*, 1841; Saint Simon, *New Christianity*, 1824.

[2] Marx, *Kritik der Politischen Oekonomie*, 1859; *Das Kapital*, 1867, 1885, 1895; 2nd. ed., 1872; Eng. trans. by Moore and Aveling, 3rd ed., 1896; *La Misère de la philosophie*, 1847. Engels, *Ursprung der Familie*, 4th ed., 1892; *Entwicklung des Socialismus*, 3rd ed., 1883; Eng. trans. 1892.

[3] MacDonald, *Socialist Movement*, p. 208.

[4] *Communist Manifesto*, "Political power, properly so-called, is merely the organized power of one class for oppressing another." Cf. Engels, *Ursprung*, pp. 177-8.

[5] An excellent account of the relation between the Marxian economic theory and Hegelian philosophy is found in Bonar's *Philosophy and Political Economy*, pp. 327-45. Cf. Croce, *Historical Materialism and the Economics of Karl Marx*, Eng. trans. by C. M. Meredith, pp. 81-2, 102,

it abolishes itself as proletariat, abolishes all class distinctions and class antagonism, abolishes also the State as State."[1] In the socialist state, therefore, all class distinctions are obliterated; because only one universal class remains after the socialist revolution, namely, human beings as economic animals. The state *as* state is abolished, because with the universal domination of economic power, political power loses its independent meaning. Another passage will perhaps make the matter clearer. "State interference in the social relation becomes, in one domain after another, superfluous and then dies out of itself; the government of persons is replaced by an administration of things, and by the conduct of processes of production. The State is not 'abolished'. *It dies out.*"[2] The culmination of the change to socialism, therefore, will be marked by the dialectic destruction of the ethical state, especially as this is conceived of by the political monist; and the death of the state will mean nothing but the substitution of "the government of persons" by "the administration of things", more particularly, by "the conduct of the process of production". The final outcome of Marxism is the reduction of all social process to an absolute economic unity.[3]

[1] Engels, *Socialism*, p. 75.

[2] Engels, *op. cit.*, p. 22.

[3] It may be noted that the Hegelian logic in Marxism results in a twofold dialectic, which is often not sufficiently distinguished. On the one hand, an opposition is set up between economics and politics by the "economic interpretation of history", and, on the other hand, state-socialism demands a substitution of government as "conduct of production" for the state as protection of property. It must not be inferred from the latter, however, that Marxism, or economic monism, contains a dialectic within itself in the form of production *versus* the possession of means of production.

That the socialists have not found the final solution of the problem of the relation between politics and economic function is shown by the fact that Marxism has divided into two opposite trends of socialist thought: The "Revisionists", on the one hand, not only criticize the Marxian doctrine of the abolition of the state,[1] but emphasize the political aspect of socialism to such an extent as to endanger its essential economic monism. Orthodox monistic socialism, on the other hand, is broken up into an economic pluralism through the radical application of its class-war doctrine by the proponents of syndicalism.[2] In either case the genuine economic monism of Marxism is lost.

Syndicalism, although in its origin a French and not a German social philosophy, agrees with Marx that economics

For the abolition of the capitalist state is necessary only because property is partially distributed, and because government is a "special representative force". As soon as the means of production are owned by the state, private property with its inequality is abolished, and the entire community of human beings as economic animals are consolidated into one universal class. It is for this reason that the property-government of Locke is not a real economic monism, as it still contains a differentiation between two economic classes. Marxism, on the other hand, seems to avoid any such differentiation by bringing both capital and production into one unity. Properly speaking, then, the socialist state is not merely the rule of the labour class, the "proletariat", but the kingdom of all the economic forces. See Engels, quoted above; Marx, *Capital* (Eng. trans.), ii, pt. 8, ch. 32; *La misère de la philosophie* (1847), pp. 99 ff; *Communist Manifesto*, Authorized Eng. trans.

[1] MacDonald, *Socialism and Government*, i, pp. xx-xxv; ii, pp. 112-9.

[2] Syndicalist literature is very extensive; the following are among the most helpful works: Sorel, *Reflection on Violence* (Hulme); Sorel. *Les illusions du progrès*; Russell, *Proposed Roads to Freedom*, ch. 3; Cole, *The World of Labour*, chs. 3-4; Macdonald, *Syndicalism: a critical Examination*; Spargo, *Syndicalism, Industrial Unionism and Socialism*, pp. 178-203; Scott, *Syndicalism and Philosophical Realism*, chs. 1, 2, 3; Merriam (editor) *Political Theories*, pp. 216-27; Mott, "The Political Theory of Syndicalism", *Pol. Sc. Qily.*, 37: 25-40.

is the ruling force of all organization. In common with socialism, also, it takes the class-war as its starting point.[1] It differs from Marxism in this that for the syndicalists the end of the capitalist *régime* is not to be marked by the final elimination of all class distinctions ; and class-war simply means the struggle of the proletariat to dominate society. It is not surprising, therefore, that the syndicalists do not profess to work for the welfare of the whole society,[2] but confine their attention to the good of the working class alone. Furthermore, being indifferent to society, syndicalism has no use for political power. Parliamentarianism and legislation are sneered at by good syndicalists,[3] and " direct action " is to them the only sane and legitimate means to achieve their end. Political power, in short, must not be merely re-distributed or transferred from one class to another : it must be totally annihilated. Indeed, the syndicalists are not afraid of chaos, but of despotism.[4] Even the dominance of the working class, they think, is not sufficient to insure liberty, if the economic order itself is not

[1] Lagardelle says : " If the whole of socialism is comprised in the class-war, we may say that the whole of socialism is comprised in syndicalism, because outside of syndicalism there is no class warfare." *Syndicalisme et socialisme*, p. 3.

[2] " The syndicalist takes no cognizance of Society. He is interested only in the welfare of the working class and consistently defending it. He leaves the rag-tag mass of parasites that make up the non-working class part of Society to look after their own interests. It is immaterial to him what becomes of them so long as the working class advances." Ford and Foster, *Syndicalism*, p. 28.

[3] MacDonald, *Syndicalism*, pp. 5-15. Cf. Haywood's remarks : " I despise the law " ; and " No true Socialist can be a law-abiding citizen ".

[4] " A certain amount of disorder is good for liberty " is M. Maxime Leroy's striking dictum ; quoted by Buel, *Contemporary French Politics*, p. 236.

decentralized. Industrial affairs, therefore, must be placed under the control of autonomous and self-governing bodies of working men, organized either on the basis of different trades and occupations, as the Italian syndicalists usually recommend, or on the basis of local and communal divisions, as is practised in France. In either case, it is the voluntary co-operation of the unions and not any central authority that governs the industrial system. Such an ideal of organization is certainly a far cry from the socialist-collectivist state. It is an economic pluralism, a feudalism within the industrial organization. In this light, syndicalism is the direct opposite of socialism.

But if syndicalism has radically changed the real meaning of socialism, no less striking have the party-socialists deviated from the course of orthodox Marxism. Viewed superficially, the party-socialists, the " Revisionists ", and even the Fabians in England, who are opposed to the syndicalist method of violence, and who see in political action the only reliable means of economic regeneration, seems to be more or less faithful followers of Marx with their attention focussed on the political aspect of his doctrine. At bottom, however, this group is thoroughly dissatisfied with the Marxian economic monism and favours a return to a more balanced view of the social process. The opinion of Mr MacDonald is worth noting here.[1] Mr MacDonald

[1] *Socialism and Government*, pp. 112-9. It may be noted that the fundamental difference between Mr MacDonald and the Marxists seems to be this : The Marxists desire the economic function as such to seize political power and to become the master of society. Mr MacDonald thinks that the State, as the representative of Society as a whole, should possess the means of production and should so control the economic system that economic power becomes a positive means to the general good.

criticizes the doctrine of Engels that at the end of the socialist revolution the state will meet its natural death. He disagrees with the Marxists that the state is *intrinsically* an instrument of oppression. The state is not bound to work for or against any particular class and it is faulty social organization that has placed the state in the present anomalous position. As soon as the state takes possession of the means of production in the name of society, it will have entered its new phase of political activity; it will have then discovered its normal method of organization, and thus acquire an importance far greater than under the old capitalist *régime*. The socialist state, indeed, he thinks, will become the embodiment of a "superior will and intelligence" by virtue of which it will exercise its control over the complex economic forces in modern society in the interest of all, producers, consumers, as well as citizens. Whether such a line of thought would lead Mr MacDonald to political monism, in the sense explained at an early place in this chapter, is of course difficult to say; but we can safely assert that he is no longer a true disciple of Marx, an economic monist. Socialism means to him not the death of the state as such, the annihilation of political power in social organization, but the creation of a greater state which shall look after both the political and economic welfare of the community. The state is a necessity; it cannot die.

In the Fabians, however, the tendency toward political monism is less marked than in Mr MacDonald;[1] instead,

[1] See *Fabian Essays in Socialism*, Amer. ed., 1891; Barker, *Political Thought from Spencer to To-day*, pp. 213-20. For statement of the views of Mr and Mrs Webb see above, pp. 63, 69-70.

we find an attempt to balance the economic function against the political. We are already familiar with the views of Mr and Mrs Webb. Their idea of a dual organization of society, with a division of power between a " political democracy " and a " social democracy ", suggests a possible way by which the political monism of the classical thinkers and the economic monism of the socialists may be avoided. It is here, then, that we find a transition to pluralism which the *guild socialists* are trying to work out.

(C) *Pluralism*

The Guild Socialist Solution

Guild socialism is an attempt to combine the truths in Marxism and syndicalism.[1] With the Marxian socialists it agrees that the existing state must be transformed through the ownership of the means of production by the state as well as through the acquisition of political power by the economic class ; and with the syndicalists it insists

[1] For representative guild socialist writings, see Webb, *History of Trades Unionism and Industrial Democracy ;* Cole, *Chaos and Order in Industry ; The World of Labour ; Self-Government in Industry ; Labour in the Commonwealth ; Guild Socialism Re-Stated ; Social Theory ;* Hobson, *The Meaning of National Guilds ; National Guilds and the State ; Guild Principles in War and Peace ;* Taylor, *The Guild State ;* Penty, *Old Worlds for New.* For an excellent treatise on the Mediæval guild system, see Renard, *Guilds in the Middle Ages* (Eng. trans. by Terry), especially " Introduction " by Cole, and chs. 2, 3, 4, and 5. Mr Ellis's article, " Guild Socialism and Political Pluralism " is very helpful ; *Am. Pol. Sc. Rev.*, 17 : 584-96.

Guild socialism, Mr Cole declares " is a ' scientific Utopianism ', a synthesis of all that is best in rival schools of Socialist thought." *Meaning of Industrial Freedom*, p. 8. Cf. also his *Self-Government*, p. 109.

that in order to effect a complete emancipation of the industry-class, it must be given the right of decentralized self-government. Against both, however, it argues that the state, as the embodiment of the political function of society, should not be abolished, but should be retained in the future social organization as a co-operative force with the economic system.[1] It is this anti-monistic tendency, both economic and political, that makes guild socialism a definite approach to pluralism.

The fundamental principles of guild socialism may be summarily stated in a few words: *first*, organization by function; *secondly*, self-government of independent functions; and *thirdly*, decentralization within each functional unit.[2] Let us see how a pluralistic society is to be constructed with these three principles.

The idea of organization by function, as advocated by the guild socialists, resembles, in a way, Plato's idea of division of labour which we find in the *Republic* and elsewhere in his writings. The first city, so Plato says, is comprised of a husbandman, a builder, a weaver, and a shoemaker. Later on this individual division of labour is enlarged into class division, when the self-sufficiency of the republic is maintained through the co-operative work of the three functions of political rule, military defence, and economic production. The present guild socialists would, of course, disagree with Plato that the ruling class

[1] Cole, *The Meaning of Industrial Freedom*, pp. 5-8, 39-44; Hobson, *National Guilds* pp. 132-5; cf. Merriam (editor) *Political Theories*, p. 227.

[2] Taylor, *The Guild State*, chs. 2-4; cf. Cole, *Labour in the Commonwealth*, pp. 45, 180 ff., 210-11.

should be superior to the other classes, and that it is the duty of the artisans to produce but not to rule. Yet if we go to the fundamental idea of occupational organization, of the division of society into its political and economic groups, as the guild socialists recommend, it is undeniable that here the Platonic republic is indirectly seeking its modern expression. " The primary advantage of a system of organization by guilds ", Mr Taylor writes, " will be that the arrangement of national life will be on the basis of essential work. The nation will become a machine organized for doing the nation's work. . . . Every normal unit of the State would be organized as a citizen in regard to his main responsibility and knowledge. He would be primarily considered as an expert ; and his chief civil duty would be to do what he really could do."[1] The ideal guild state, therefore, would be the state in which the Platonic principle of Justice universally prevails : the harmonious co-ordination of all the essential functions of society.

The great point of difference between the guild socialists and Plato evidently lies in the principle of functional government, which, if applied to the Platonic republic, would mean that while the " non-citizens " therein possess no rights in the *political* state, they must acquire, as members of a separate and independent class, rights and powers of their own. The guild system, therefore, en-

[1] *Op. cit.*, p. 50 ; cf. Hobson, *National Guilds*, p. 132. Mr and Mrs Webb, although not guild socialists, share with them the view that society is a division of two essential functions, economics and politics. In Mr Cole's earlier writings he inclines to regard the state as a representative of the economic function of consumption. In his later works he holds to a more logical demarcation of these two spheres.

franchises a new citizenry and creates a new democracy, the economic democracy of "artisans". The second principle of guild socialism thus gives an effective meaning to the first, and supplies, together with it, the constructive basis of "political pluralism". Politics and economics, so it is reasoned, being essentially independent, should be separated in their organization, as politics and religion have already been separated. Society is to be divided into two distinct systems, the state and the guild, each with its own government, citizenry, electoral system, and legislative body. The co-ordination of these two self-governing functions completes the essentials of the "pluralistic state".[1]

The third principle of guild socialism, namely, the principle of decentralization, though practically important, is theoretically less fundamental than the preceding two. Agreeing generally with the syndicalists and the regionalists, the guild socialists point out that over-centralization of power at any one point indicates not only inefficiency but despotism. Society is, therefore, to be decentralized as well as functionalized; and it is for this reason that guild socialism may be said to be a two-dimensional federalism: it divides society horizontally into functional autonomies, and vertically, within each function, into decentralized local or professional units.

After having reviewed the general principles of guild socialism and their bearings on a pluralistic political theory, we must now try to discover what, according to the guild

[1] Hobson, *National Guilds*, pp. 255-63; Cole, *Industrial Freedom*, pp. 31-2.

socialists, is the exact relationship between the state and the guild, and through this inquiry, to determine the degree of success they attain in establishing pluralism. We shall devote our attention largely to the views of Mr Hobson and Mr Cole.

Taking up Mr Hobson first, we are surprised to find that while he, like any other guild socialist, regards the guild as a co-operative organ with the state, he finally assigns to the latter (pluralistically speaking) a rather too eminent place. The function of the state, according to Mr Hobson, is political. The state must take charge of the matters of law, external and internal order, central and local administration, education and morality, and in fact, all " spiritual " things. The state, therefore, appears to cover quite an extensive field of social organization, although, as political function, it must keep its hands off all industrial-economic affairs, which lie within the proper jurisdiction of the national guild.[1] Indeed, as the instrument of co-ordination and regulation, the state occupies a uniquely important position in the dual organization of society ; for *politically* the state is to dominate over the guild system.[2] Moreover, Mr Hobson maintains that while the economic order is a necessary condition of national well-being, it is the state alone that represents the highest moral and cultural attainment of the community. State-citizenship, to be sure, ought to be distinguished from guild member-

[1] *National Guilds,* pp. 255 ff. Mr Penty seems to be the only guild socialist of rank who favours the mediæval " small guild " system. See his *Old Worlds for New.* The large majority of guild socialists prefer the national guild.

[2] *Op. cit.,* p. 263.

ship ; the latter should not be merged in the former. It is citizenship, however, that entitles the individual to the best and fullest measure of his social life. " A man ", he says, " is a member of his Guild for sound material reasons, and through his Guild his material interests are protected, but his rights as a citizen transcend his Guild membership."[1] The state possesses, therefore, a spiritual superiority which the guild lacks. For we must " realize that the State has functions and duties that cut clean across all lines of industrial organization "[2] and " that in the final analysis the State, as representing the community at large, must be the final arbiter "[3] of all social relations.

The position of Mr Cole, another important guild socialist, is less easy to state, owing to the substantial revision of his conception of the function of the state in his later writings, including *Social Theory* (1920) and *Guild Socialism Re-Stated* (1920). In his *Self-Government in Industry* (1917) he holds that the state, in contradistinction to the guild, is a consumers' organization, which, by its representation of the consumptive interests of the community, possesses a right to exist side by side with the productive organization, the guild system. The division of social power, therefore, consists in a balance of power between the Political Parliament and the Guild Congress, so that neither the one nor the other " can claim to be ultimately sovereign ".[4] The relation which exists between them is one of co-operation, secured through some joint representative body which acts, presumably, in the interests of all parties concerned.

[1] *Ibid.*, p. 233. [2] *Ibid.*, p. 256. [3] *Ibid.*, p. 133.
[4] *Self-Government in Industry*, p. 135.

The state, however, as an association of consumers, is itself an economic function. In his *Social Theory*, Mr Cole changes his views, and no longer regards the state as exclusively representative of the economic function of consumption. In this book he emphasizes the necessity and desirability of "functional representation", the arguments for which are already familiar to us.[1] His constructive suggestion for the establishment of a guild socialist society, in a pluralistic state, which is contained in his *Guild Socialism Re-Stated*, however, demands our present attention. The idea of a functional balance between politics and economics, so prominent in his *Social Theory*, is less conspicuous here, although the guild organization itself seems to have in part inspired this idea. Locally and regionally there are to be three sets of organizations, first, the *industrial guilds*, representing all persons in the producing and professional class; secondly, a twofold organization of the consumers, the *co-operative council*, formed of consumers of particular commodities, and the *collective utilities' council*, formed of consumers of general public utilities, like water, gas, electricity, etc.; and, thirdly, the *civic guilds*, representing the non-economic interests, having for their organs the cultural council, health council, etc. Over and above these local and regional communal bodies, a national body is to be established, which is to be based upon the representation of functional as well as territorial divisions. The most important powers and duties of this body are: (1) settle-

[1] *Social Theory*, pp. 66 ff, 103 ff; see above, pp. 79 ff.

ment of constitutional questions of demarcation between the various functional organizations; (2) control of the army and navy; (3) coercion over the individual and the groups; and (4) regulation of prices, income, and other national economic relations.[1]

After having acquainted ourselves with the guild socialist doctrine of the relation of the state to the economic organization, so typically set forth by Mr Hobson and Mr Cole, we are left with the impression that it is a long way from guild socialism to pluralism—if we mean by pluralism an absolute balance of power between economics and politics, and a complete escape from both political monism and economic monism, as explained in the first part of this chapter. Indeed, little reflection is needed to discover the monistic implications in Mr Hobson's conception of the state as the supreme representative of the community at large, especially in its spiritual and cultural affairs, when we remember that this is essentially the position of the ancient Greeks, who regarded the state as the culmination of man's ethical reason. Mr Cole, to be sure, has cut loose from classical monism by defining the state as a consumers' association, which is an economic and not a political entity. But if the state itself, like the guild, is an economic order (although it represents a different economic function from that which the latter represents), the entire social philosophy of Mr Cole is an economic monism. On the other hand, his later change of position would involve his theory in political monism, the logical issue of Mr Hobson's theory. The

[1] *Guild Socialism Re-Stated*, pp. 139 ff.

national communal body, which possesses supreme power over all individuals and associations, appears to be merely a new political leviathan with a different name. It is not called a state, but it is vested with an authority which the most powerful of the existing states cannot exceed.[1] It controls and regulates not only civil, but economic matters ; it makes war and maintains peace ; it coerces the individual as well as the group ; and even the demarcation of the rights and jurisdiction between the supposedly autonomous guilds is entrusted to this all-powerful body. If this is not a perfect example of a monistic state, then no state can ever be called monistic. No matter how Mr Cole modifies his conception of the function of the state, the *main morte* of monism, economic or political, is always upon him. . . .[2]

Our conclusion, then, is that guild socialism yields no

[1] Cf. Elliott, " Sovereign State or Sovereign Groups ? " *Am. Pol. Sc. Rev.*, 19 : 475 ff.

[2] It would perhaps be unfair to say that the guild socialists revert to monism by bringing back the old notion of juristic sovereignty. Nevertheless both Mr Hobson and Mr Cole do embrace a type of monism, which stresses the legal aspect of the state. The supreme power of constitutional settlement granted to the national commune by Mr Cole, at once transforms that body into a legal sovereign, from whose decrees there is no direct appeal. Mr Taylor's state savours less of constitutionalism, but his statement that " it will be for the state to express *what* it wants ; it will be for the guild to say how it should be done " (*Guild State*, p. 67) strongly suggests Dr Krabbe's idea of the state as the sole legal instrument of the evaluation of interests. It is not surprising, therefore, to find that Mr Taylor even assigns to the state the right to grant charters to new guilds, thus providing a scheme " that would give the community as a whole the right to decide whether the proposed new guild should be granted a monopoly, either absolutely or partially in the trade of its district ". (*Ibid.*, p. 118) " It is ", he adds, " perhaps in this right to control industry by charters that we find the most vital function of the state ". (*Ibid.*, p. 119) Such a conception of the function of the state curiously reminds us of the mediæval doctrine of the " concession theory " of corporations, although Mr Taylor may deny the truth of the " fiction theory "

true pluralism and even falls short of its primary aim of solving the problem of the relation between politics and economics by a system of perfect balance. We would not deny, of course, the real significance of the guild socialist teaching of economic self-government and industrial freedom. Yet granting this side of its doctrine, we have still to prove that a democratic economic organization necessitates, or implies, the repudiation of the political state. On the contrary, no matter how we conceive of the function of the state, we seem to be forced to recognize, after closer analysis, that the political state is the superior power in all social organization. We may define the state in narrowly political terms, namely, merely as the adjuster of social relations, as many of the guild socialists do. In that case, the state, the political instrument, by the very nature of its function, possesses a formal authority to which the economic association must yield obedience. And be it noted that this authoritative relation between the state and the guild is never reciprocal; for the state alone, as Mr Taylor wisely insists, is to be the dictator of all social values. If, on the other hand, we take the state in its broad ethical meaning, pluralistically speaking we are in a worse plight than before. For if we go right back, in this way, to Aristotle and the classical monists, and regard the state as the highest community of all communities, we reduce the economic organization to a mere instrument of the ethical purpose of the state, a position which Mr Hobson does not hesitate to maintain. If we refuse to accept either one of the two above conclusions, there seems to be no other course open than to treat the state as a part of

the economic organization—as Mr. Cole conceived it in his former works—which would mean to surrender our theory to the economic monism against which guild socialism has raised its conscientious protest. In fact, it seems to us indubitable that, as our brief study of the history of Western political-economic thought shows, there is no middle-ground between the opposite standpoints of political and economic monism. The theory of the guild socialists (the theory of balance), which appears at first as a synthesis of these opposite tendencies, finally resolves itself as a revival of classical monism. The development of the industrial system has led the guild socialists rightly to see that the economic function possesses a greater significance than that which the classical writers were able to see. Yet we must not forget that the arguments by which the guild socialists seek to establish economic freedom are in general those arguments which the latter employed in developing their monistic theory. The triumph of " pluralism ", therefore, would mean the defeat of economic monism and the renaissance of political (or, more exactly, ethical) monism. In this light, guild socialism is the most optimistic of all the socialistic tendencies : it believes that social organization is ultimately capable of achieving the complete good of man in its manifold aspects.[1]

[1] Cf. Mr Scott's remark that syndicalism is the symptom of " the failure of the long effort to achieve the good for man as such—the good, not of one class, but of all classes, i.e., the good of the state *qua* containing all classes ". *Syndicalism and Philosophical Realism*, p. 30.

CHAPTER VI

PLURALISM AS A POLITICAL THEORY

It must have become clear from our previous discussions that what is popularly known as *political pluralism*, or the pluralistic theory of the state, is by no means a unified and systematically developed theory. We find, instead, a group of divergent, even conflicting, tendencies in political speculation, held together by no other tie than the general agreement that the state is to be "discredited", "particularized", and reduced from its former height of sovereign inclusiveness to a humble position alongside of all other social institutions. It was Mr Laski, if we are not mistaken, who first adopted the term "pluralistic state"[1] to characterize that system of social organization which pluralists in general seek to realize and exalt. Mr Laski claims intellectual lineage directly from William James;[2] and the pluralistic state is presumably intended to be an exact replica of James' pluralistic universe.

The term pluralism, however, seems to us an unhappy

[1] It must be noted, however, that Mr Laski refrains from using the term "pluralistic state" in his recent book, *Grammar of Politics*. A probable reason is that he has made important changes in his earlier views, which seem to be more "pluralistic" than those set forth here. Mr Laski criticizes Mr Cole and the guild socialists in general, and tends, on the whole, to a thorough-going individualism. How this shift of position will affect Mr Laski's theory we shall have occasion to see later on.

[2] *Problem of Sovereignty*, p. 23; *Foundations of Sovereignty*, p. 169; *Grammar of Politics*, p. 261.

one: it is ambiguous and it is extremely misleading. Whatever may be the avenue of approach—whether it be through law and legal theory, through the problem of representative government, or, lastly, through economic and social organization—the final outcome of the pluralistic argument is, in every instance, not multiplicity as such (as we naturally expect), but some unity that transcends and points beyond mere multiplicity. We have seen how Dr Krabbe's legal decentralization finally resolves itself into a conception of legal community which is supported by a universal sense of right; how M. Duguit's radical realism was more than counter-balanced by the social monism implied in his sociological principle of solidarity; and how Mr Cole, who is apparently more pluralistic than both, ultimately came to a social system which savours of monistic legalism. The rest of the pluralistic stories have no happier endings; and we need not here dwell upon their misfortunes.

With this general remark, we now proceed to give our estimate of the real value and validity of pluralism as a new theory of politics. For the sake of convenience, we propose to centre our discussion around three historical political problems: (*a*) the problem of sovereignty and the conception of the state; (*b*) the problem of the general will; and (*c*) the problem of change and stability in the social process.

(*A*) *The Problem of Sovereignty and the Conception of the State*

The central argument advanced by the pluralists against the sovereign state, we recall, is that although the state

includes everyone residing in its territory, it cannot include the complete personality of everyone,[1] since, according to the principle of function, each individual possesses a variety of social interests that are permanently objectified in many groups, among which the state is one. The state, as a partial expression of the social purpose of man, has a definitely circumscribed sphere of activity; as soon as it enters into some other sphere, it advances into fields of futile action, in which grave dangers inevitably follow. Pluralists frequently refer to the separation of the church and the state as a first step toward the complete particularization of the state; they point to three religious movements in Great Britain, which they think, conclusively demonstrated the futility of state-interference in realms which the political instrument has no right to touch.[2]

Granting that the pluralistic principle of separation of functions is valid, it does not seem that this principle in itself constitutes a logical refutation of the monistic theory. For we must remember that apart from Aristotle, who conceived the state as the complete embodiment of the ethical nature of man, very few modern theorists deem it necessary or advisable to claim for the state an omnipotence over all the relations and activities of men. Take Hobbes, for example. In the history of Western political thought there has perhaps never been a more thorough-going monist than he. But while Hobbes raises the leviathan to the

[1] Mr Cole says: "The state, I contend, even if it includes everybody, is still only an association among others, because it cannot include the whole of everybody." *Proc. Arist. Soc.*, 15: 154.

[2] Laski, *Problem of Sovereignty*, pp. 27 ff.

sanctity of a mortal god on earth, he never forgets that there is, over and above it, an immortal and more powerful spiritual God, to whom the claims of the former must finally be subordinated.[1] "Subjects", he says, "owe to Sovereigns simple obedience, in all things, where their obedience is not repugnant to the laws of God." The duty of every citizen, in fact, is not merely to know civil laws and obey them, but God's laws also. For otherwise he may either render "too much obedience" to the civil power and offend God; or, through his fear of God, transgress the laws of the commonwealth. In other words, there is, for Hobbes, a clear demarcation between the spheres of religion and politics; and the political state, absolute as it is in its own sphere, does not and cannot touch the spiritual life of men.[2]

If, however, the views of Hobbes, the "prince of monistic thinkers",[3] do not suffice to prove our point, we may appeal to the eminent authority of Bodin, another acknowledged monistic celebrity. Mr Laski has elsewhere pointed out that Bodin contradicts his theory of sovereignty in admitting that positive law is subject to the final authority of moral and natural law.[4] We must realize, however, that what Bodin has admitted is not a *legal* limitation of positive statutes by natural law, but merely the existence of two distinct realms of human life, political and ethical, and the priority of the latter. In fact, Bodin's famous

[1] *Leviathan*, chs. 17, 18, 31.

[2] Cf. our discussion of Hobbes' doctrine of natural law as a limitation on legal sovereignty, below, ch. ix.

[3] Mr Laski's phrase, *Problem of Sovereignty*, p. 25.

[4] The passage which Mr Laski had in mind is doubtless this: "As for the laws of God and of nature, prince and people are equally bound by them." *De Republica*, i, ch. 10.

definition of sovereignty as " supreme power over citizens and subjects, unrestrained by laws ", would lose its real meaning unless we interpret it to apply only to the political realm. Sovereignty is supreme, not over man as religious or ethical, but over him as *citizen*, or as member of the political state ; not over believers in a church, but only over *subjects*, who are rightfully under its jurisdiction. It is unrestrained not by natural, moral, divine, or some other fundamental concept of law, but merely by the law that is its own creation. Such a definition, to be sure, may appear altogether " trifling " and tautological. In any case, however, the usual pluralistic argument of functional division of spheres cannot be applied to Bodin's theory, which has nowhere indicated that sovereignty is supreme over all men in all their relations and capacities, unrestrained by all law, positive as well as natural and divine.[1]

[1] Cf. our discussion of Bodin's ethical standpoint, below, ch. ix. In this connection it may be interesting to recall Austin's definition of law as " a command, coupled with a sanction, given by a political superior or sovereign to a political inferior or subject ". (*Jurisprudence*, Lect., 1). Austin, here, we note, adopts the technical terms " sovereign " and " subjects ", and qualifies them with the word " political ", evidently to avoid the possibility of reading into his legal theory any ethical or religious connotation. President Lowell, however, finds it relevant to criticise Austin on the score that, since in a state it is conceivable that the bulk of subjects may habitually obey the commands of the sovereign in certain matters, viz., political matters, but refuse to obey him in certain others, e.g., religion, it follows that the supreme sovereign power as defined by Austin does not exist. This line of argument is obviously unfair to Austin. For, if Austin, as Mr Lowell thinks, is a faithful disciple of Hobbes, he must have been sufficiently familiar with his master's distinction between legal and moral obligations to enable him to free his jurisprudence from moral-religious implications. In fact, it is now generally accepted as patent that the central feature of the Austinian *juris*-prudence is its narrowly political conception of sovereignty. See Lowell, *Essays on Government*, pp. 193-210.

In fact, we may point out that the demarcation of spheres between politics, on the one hand, and ethics and religion, on the other, constitutes a true characteristic of modern political theory, and that monism, in its fully developed technical form, did not appear until the century-long mediæval controversy between the imperialists and the supporters of the Pope had been settled by the actual separation of the church and the state. It would be absurd, indeed, for us to suppose that modern monistic thinkers had refused to recognize an established fact and a generally accepted theory, insisting that the state, in its strictly political capacity, remained, or should remain, the complete expression of all human life.[1] The obvious difficulty with many of the pluralists, we suspect, is their failure to appreciate the real problem of the lawyers. The juristic conception of sovereignty, which reduces political theory to a pure science of positive law,[2] may be a " barren conception ", as Mr Laski characterizes it ;[3] and with him certain orthodox writers can readily agree.[4] To be fair to the other side, however, it must also be admitted that legal sovereignty is not a pure fiction of the lawyer's logic,

[1] We may note that when the pluralists say that the state " includes everybody ", they have asserted something which the monists have not claimed. We may quote Austin's definition of political society : " If ", he writes, " a determinate human superior, not in a habit of obedience to a like superior, receives habitual obedience from the bulk of a given society, that determinate superior is sovereign in that society " . . . etc. (*Jurisprudence. Lect.* vi). Thus, according to Austin, the fact of sovereignty is sufficiently established, not by the obedience of each and all, but merely of the bulk of the community.

[2] Pollock, *History of Science of Politics*, p. 103.

[3] *Problem of Sovereignty*, p. 269.

[4] T. H. Green, *Works*, ii, pp. 403 ff.

without substance. It possesses intrinsic value for certain practical and urgent purposes. The idea of legal competence, or " legal despotism ", has been frequently employed by jurists to settle difficult questions of conflicting jurisdiction within the state,[1] and, as a legal conception, should not be confounded with the more or less realistic conception of political competence. In fact, monists like Hobbes and Bentham clearly distinguish between the legal duty to obey and the political doctrine of non-resistance,[2] the actual operation of the former being always conditioned by the willingness of the majority of the subjects to yield. As long as we keep this distinction in mind, we should see no necessity for denying the existence of legal sovereignty upon the ground of its *de facto* limitations.

The criticism of the pluralists may be answered from still another angle—by an analysis of sovereignty into its three related aspects, as Locke has wisely suggested.[3] In the first place, we may find in a state the supreme power of law-making, which is vested in the assembly, in the case of a

[1] Sabine and Sheppard, " Introduction " to Krabbe, *op. cit.*, p. xviii.

[2] *Pollock, op. cit.*, p. 99.

[3] These are Locke's words : " Though in a constituted commonwealth, standing upon its own basis, and acting according to its own nature—that is, acting for the preservation of the community—there can be but one supreme power, which is the legislative, to which all the rest are and must be subordinated ; yet the legislative being only a fiduciary power to act for certain ends, there remains still in the people a supreme power to remove or alter the legislative, when they find the legislative act contrary to the trust reposed in them . . . In some commonwealths, where the legislative is not always in being, and the executive is vested in a single person, who has also a share in the legislative, there that person, in a very tolerable sense, may also be called supreme, not that he has in him all the supreme power, which is that of law-making, but because he has in him the supreme execution." *Treatise*, ch. xiii, §§ 149-51. See Mr Ritchie's discussion, *Annals Am. Acad. Pol. and Soc. Sc.*, 1 : 399 ff.

democracy, and may be called Legal Sovereignty. Secondly, the people as a corporate body, with the collective power to control the government through public opinion or the general will, represents the Political Sovereignty. And thirdly, the government, in its executive function, is the embodiment of what we may term Effective Sovereignty, that is, the actual power of the national community as exercised through its definite organ. Now if we view each of these aspects of sovereignty separately, from the standpoint of the community as a whole, we must necessarily regard each not as ultimately absolute, but relative in authority. For it is obviously true that legal sovereignty is limited, as Locke points out, by the will of the people no less than by the traditions and the fundamental laws of the commonwealth.[1] Political sovereignty, on the other hand, finds a reciprocal check by law and government ;[2] and, ordinarily, the will of the people cannot go beyond the boundaries set to it by the moral and religious traditions of the people themselves.[3] Still less absolute, surely, is effective sovereignty, since in almost every instance, the executive in a democracy is subject to all

[1] We should note that Austin also admits this limitation : " In almost every independent political society ", he says, " there are principles and maxims expressly adopted or tacitly accepted by the sovereign, and which the sovereign habitually observes. The cause of this observance commonly lies in the regard which is entertained for those principles or maxims by the bulk or most influential part of the community ; or it may be that those principles or maxims have been adopted from a perception of utility or from a belief of their conformity to the divine will." *Op. cit.*, Lect. I, §§ 190, 254.

[2] Locke says : " Where there is no law, there is no freedom." *Op. cit.*, ii, § 57.

[3] Ritchie, *op. cit.*, pp. 407 ff.

sorts of checks and restrictions, which are imposed upon it by the legal and political sovereignty.

But while we recognize the reality and practical value of such a system of mutual checks of the three aspects of sovereignty, we must not overlook the fact that when each of these aspects is taken separately in its own specific sphere, it is generally assumed, in theory and practice, to be absolute in its authority, which is only potentially limitable and becomes limited only when actually checked by another aspect. Let us make our meaning clear by an example. When a democratic parliament or congress enacts a certain law, that law is always regarded as issuing from a supreme legal sovereign, and, for that reason, unconditionally binding upon all. That law, indeed, may be subsequently abrogated or modified by a successful veto of the chief executive, through a judicial decision which represents political sovereignty in a legal form, or, lastly, through definite manifestation of public opinion resulting indirectly in a legislative repeal. Evidently, however, this possibility of annulment does not prove that a valid and authoritative law had not been made, and still less that the power which made this law is not legally supreme. An illustration from the standpoint of the executive, which is admittedly the least absolute of all the three powers of government, shows our meaning equally well. An act of the executive is usually regarded as authoritative and irresistible, so long as neither the legal sovereign, nor the political, deems it necessary to call it into question. Thus, even from a merely practical point of view, the fiction of sovereignty, to call it a fiction, is not without indispensable

value. It is a conception by which the collective power of the community is put into definite and tangible form ; and in this way the whole political process becomes intelligible to the legislator and statesman. Some pluralists, indeed, may prefer to adopt a point of view diametrically opposed to the above. They insist, so it appears, that we must assume every law to be devoid of authority until it proves to possess it ; that we must assume every government to be impotent unless, at a given moment, it gets actual consent from a sufficiently large number of citizens ; and that, in short, we must assume society to be every minute in a state of revolution when no definite authority can exist, and that each successful political action indicates merely the willingness of the majority to come to a temporary truce. How a theory of positive politics is possible from such an assumption is rather difficult for us to discern.

Furthermore, since it is theoretically possible to regard all the three sovereign aspects as flowing from one single source, namely, the collective power as embodied in the entire political society which comprise both the people and the government, we can and must regard sovereignty, in this theoretical totality, as supreme and unlimited. Actually, of course, such a complete synthesis of the various aspects of sovereignty never exists. The political power of any given community is admittedly not always expressed fully through its " determined sovereign " ; too often, indeed, there is a wide gap between the general will, or the political sovereign, on the one hand, and the legislative and executive will, or the legal and effective sovereign, on the other. Hence Mr Ritchie rightly suggests that

"the problem of good government is the problem of the proper relation between the legal and ultimate political sovereignty".[1] The supreme political problem, in other words, consists in the discovery of a means whereby the three aspects of sovereignty may be brought to the highest degree of unity and harmony, so that the necessity of the actual exercise of mutual check between the three aspects of sovereignty, as described by Locke, is reduced to a minimum. It becomes clear, then, that when the pluralists criticize the theory of sovereignty by showing that political power as wielded by the government is always actually limited, and that revolution is every minute possible,[2] they have not only missed the logical point of the monistic theory, but have taken a wrong view of the real political problem.[3]

[1] *Op. cit.*, p. 402.

[2] Laski, *Authority in the Modern State*, pp. 44-5, where he cites the cases of the Welsh miners' uprising, the Ulster protest against Irish Home Rule, and the refusal of certain individuals to obey the military service act of 1916, as a proof of the impotence of the British sovereign power. Cf. Figgis, *Churches in the Modern State*, pp. 84-5.

[3] It should be pointed out, however, that Mr Laski prefers, in his *Grammar of Politics*, to regard the problem of politics not as one concerning the ultimate authority of the state, but merely of its government. "A theory of state", he says, "is essentially a theory of the governmental act" (p. 28); consequently, "a working theory of the state must, in fact, be conceived in administrative terms" (p. 55). With the central problem of politics thus defined, Mr Laski finds it comparatively easy to hold that the will of the state is "the will of government as accepted by the citizen body" (p. 29), and that there are "as many organs of authority in society as there are bodies which command the assent of men" (p. 251). The problem of politics, in other words, is merely the practical problem of finding the fact of obedience and the means whereby to arrange political institutions so that obedience is actually secured. (Cf. Mr Laski's assertion that "the sovereign is the person in the state who can get his will accepted, who so dominates his fellows as to blend their wills with his", *Problem*

We are compelled to conclude, then, that the pluralists fail to " expunge " the notion of sovereignty from political theory as they claim.[1] But there is a still more interesting and perhaps somewhat surprising fact to note : while most pluralists have sought to drive sovereignty out of the front door of their new society, they quietly smuggle it in again through the back door, more or less disguised, but nevertheless a sovereignty. Such, indeed, is the case with Dr Krabbe's " legal community " ruled by the " sense of right ", M. Duguit's monistic principle of " social solidarity ", and Mr Cole's " democratic supreme court of functional equity ". Enough has already been said regarding Dr Krabbe and M. Duguit in connection with our discussion of their legal theories ; let us here examine

of Sovereignty, pp. 270, 16-7). Admitting that such a standpoint is useful, as it is practical, it can neither be employed as a relevant criticism of the traditional standpoint, nor taken as a complete and final statement of the political problem. The question, for example, of the ultimate ground of obedience seems to be of permanent interest ; and, as political theorists, we must not only know *when* people do obey and *how* to get them to obey, but also *why*, in some fundamental sense, they must obey. On the other hand, it should be observed that the mere fact of obedience does not indicate good government ; there are instances where actual *dis*obedience is justified.

Perhaps the real meaning of Mr Laski's position is this : assuming that the people always know what they want, and that they always support a government that satisfies their wants, the central duty of the government is to discover what the people want and promote their ends. His intentional identification of the state with government, therefore, would constitute a ground for the limitation of political power. The difficulties involved in this view will be discussed at a later place. See below, chs. vii and ix.

[1] Dr Krabbe says : " The notion of sovereignty must be expunged from political theory." *Op. cit.*, p. 35. Cf. Mr Lindsay's remark : " If we look at the facts it is clear enough that the theory of sovereign state has broken down." " The State in Recent Political Theory ", *Pol, Qtly.*, 1 : 128.

briefly Mr Cole's idea of legal supremacy as a substitute for the notion of sovereignty.

The supreme court of functional equity, according to Mr Cole, is a joint body which shall co-ordinate all the main functions of society.[1] It is, however, neither a legislature (for laws will be made by the functional associations themselves), nor an administrative organ (for decentralization precludes any central executive power), but a judicial court of final appeal, which, like the Supreme Court of the United States, is endowed with the power to decide all cases brought before it. Unlike the latter, however, it possesses the extraordinary power of enforcing its own decisions by physical coercion, should the contending parties fail to carry out its arbitration.

What, we ask, can this mean, except a legal monism of the most absolute sort ? For a supreme court either bases its authority upon a written constitution, as in the United States, or settles cases by force of its own opinions and precedents, namely, by " judge-made laws ". In the first case, it is a monistic arrangement pure and simple, since a written constitution is a definite and undivided sovereignty above all political powers. On the other hand, if there is no written constitution, the power of the supreme court would theoretically be unlimited, since it also, in the absence of constitutional statutes, must assume the duty to make its own laws. In this case, the judicial body will also be a legislative power[2], although, as Mr Cole

[1] *Social Theory*, pp. 135-7.

[2] For the position of the British parliament as the supreme judiciary as well as the legislative organ of the kingdom, see McIlwain, *High Court of Parliament*, especially ch. 3.

suggests, it cannot make laws unless cases are brought before it. But surely cases will be brought before it, if it is to be a really useful organ ; and, naturally, with every decision rendered over conflicts of the functional groups the supreme court will gain an extension of its power, until finally all functional bodies are placed under the complete rule of this judicial authority. That is not all. According to Mr Cole, this court is also to have the absolute power of coercion and enforcement. An extension of the arbitral power of the court, consequently, may be accompanied by an extension of its coercive force, making the legal absolutism of this " democratic court " far greater than any legal sovereignty that has been conceived by the monists.

The pluralists, therefore, attempt to abolish sovereignty, but are finally compelled to restore it. And sovereignty, in the case of Mr Cole, comes back with a vengeance. The truth is that when pluralism sets out to prove that there is no ultimate authority in society, and that there should not be such authority, it proposes a task which cannot be accomplished. For an ultimate sovereignty there must be, whether we find it in " natural law ", " in reason ", in " social solidarity ", or in the individual's " sense of right ". Furthermore, as soon as we admit the existence of an ultimate power, we must provide a definite channel for its expression—we must establish, in other words, a " determined person ", as the jurists say, through whom the voice of the common good is heard. The pluralists may, indeed, refuse to call the definite instrument the " sovereign person ", and disguise it under the more presumptuous name of " legal community ", or " supreme

court of functional equity". But whatever we call it, sovereignty is still sovereignty; it does not lose the quality of supremacy even by changing its manner of exercise. In fact, we are inclined to think that the real problem of the pluralists is not to destroy sovereignty, but to *reorganize* it, so that political power shall become the true expression of the community.[1] To destroy sovereignty is as dangerous as it is futile.

How sovereignty is to be reorganized we can fairly gather from our previous discussions, although opinions necessarily differ with the various pluralists. It is needless to repeat all of them here; the view of Mr Cole is sufficiently representative. "With society, the complex of organized associations", he writes, "rests the final more or less determinate Sovereignty. We cannot carry sovereignty lower without handing it over to a body of which the function is partial instead of general."[2] In another place, he points out that the power of the individual to promote or not to promote any association is a power "which cannot be delegated to, or represented by, any institution, and it is the essence of sovereignty".[3] For Mr Cole, then, there is sovereignty, but we must not seek it in the political state, which, pluralistically speaking, is a partial institution. We must rather locate this ultimate power in the entire

[1] "The difference between good and ill government", as Algernon Sidney says, "is not that those of one sort have an arbitrary power, which the others have not; but that in those which are well constituted, this power is so placed as it may be beneficial to the people." Quoted by Ritchie, *Am. Acad. Pol. Soc. Sc.*, 1: 400.

[2] *Arist. Soc.*, 15: 157.

[3] *Labour in Commonwealth*, p. 207; cf. Laski, *Problem of Sovereignty*, pp. 16-7.

community as a harmonious system of functions, and in the consciousness of the individual as the fountain-spring from which all social interests flow. The " pluralistic state ", therefore, possesses sovereignty ; it is, after all, a sovereign state.

We must not conclude, however, that the entire pluralistic criticism of monistic sovereignty is a vain attempt, and that the pluralists end exactly where they started. On the contrary, pluralism contains a great lesson which all unsophisticated monists must learn. It lays bare the extremely narrow and abstract character of the juristic conception, and urges us to search after another conception that is more concrete and comprehensive. Sovereignty, the pluralists insist, must not be too narrowly political or legal ;[1] in order to give full utterance to the diversity of social purposes, it must flow from a source that is more living and inclusive. It should, in other words, represent not merely the political interests of the community, but its economic, social, cultural, and other interests as well. In this way, sovereignty becomes the objective manifestation of the totality of social purposes, and thus acquires an authority which is vastly more extended and ultimate than any sovereign power conceived by the monistic lawyers. Curiously, then, the real criticism offered by the pluralists against the traditional theory of sovereignty is not that it is not monistic, but that it is not monistic enough.

[1] Mr Laski declares : " Our mistake, that is to say, in the past, lay in conceiving democracy in terms too narrowly political." " Democracy at the Crossroads ", *Yale Rev.*, n.s., 9 : 791.

With the monist-pluralist controversy over the question of sovereignty cleared up, we shall have comparatively little difficulty in understanding the allied controversy over the nature of the state. The pluralists, we recall, insisted that the state is only one among many associations, that the purpose it embodies is merely partial, and that, in consequence, the state is not and cannot be sovereign. On the other hand, they maintain that sovereignty is not the monopoly of any one association, but coincides with the entirety of social purpose. From these two lines of reasoning it becomes obvious to us that while the pluralists aim at a broad conception of sovereignty, they restrict the state to its narrow political sphere. The state, in this narrow sense, surely cannot be regarded as sovereign, simply because a narrowly political state is smaller than society, or because sovereignty is wider than the power of the state. The monists, that is, the traditional jurists, on the other hand, conceive both the state and sovereignty in narrowly legal terms, so that sovereignty is coextensive with the authority of the state. The state, then, is sovereign, not necessarily because it exhausts all the meanings of social organization (for it does not), but because it exhausts the whole range of *legal* sovereignty. Different from both these views is what we may call the ethical or philosophical view, which conceives both the state and sovereignty broadly.[1] In this case, since the state represents the highest possible ethical realization of man in his

[1] See, for instance, Bosanquet, *Philosophical Theory of the State*, pp. 150-1; Haldane, *Contemporary Rev.*, 117: 761; T. H. Green, *Works*, ii, p. 404.

social capacity, and since sovereignty flows directly from the rational will of the individual, it follows naturally that the state is ideally sovereign. The pluralists, of course, object to both the legal and the ethical conception of the state ;[1] both these notions have been stigmatized as " monistic " by them. A good deal of controversy may be avoided, however, if we make clear the real differences between the three positions which we have just outlined. The state is either sovereign or non-sovereign, depending upon what we mean by sovereignty and the state. If we agree with the pluralists that sovereignty is social, or sociological, and that the state is political, it is but reasonable for us to conclude that the state is servile and not sovereign. The arguments of the legal and ethical monists will be equally consistent, if we sympathize with their respective fundamental standpoints, i.e. accept the particular meaning which they attach to sovereignty and the state.

The whole problem, then, is reduced to a question of the adoption of standpoints. Hence, even though the entire range of pluralistic criticism against the traditional theory has missed its logical mark, there still remains the possibility that the pluralistic standpoint as such possesses a significant meaning which we must not ignore. The traditional conception of sovereignty, in so far as it takes a narrowly legal-political view of social power, has its advantages as well as disadvantages. It has the advantage of scientific precision and simplicity in comprehending the political

[1] Many pluralists, however, adopt an ethical standpoint ; see below, ch. ix.

process, but there is a likelihood that we may push it too far and mistake a partial abstraction for the total concreteness. Very few of us to-day can sympathize with the Austinian method of analysis ; it easily tempts us to regard the legal sovereignty as somehow above and independent of the concrete social process, although perhaps the Austinian theory itself implies no conclusion of this sort. Nor can we safely accept, on the other hand, the ordinary liberal tendency which optimistically exalts the blind force of public opinion. For it simply emphasizes the popular aspect of sovereignty at the expense of both its governmental and legal aspects which Hobbes and Austin had endeavoured respectively to define. And, finally, even if we succeed in seeing all the aspects of sovereignty in a connected whole, as Rousseau evidently did, the question still remains whether the traditional political organization, which takes account of no one except as a citizen and member of the state, and which permits nothing to exist within itself save individual persons, is the best possible organization to realize the full vital force of Sovereignty.

It is here that the pluralistic theory reveals its genuine value. It discerns clearly the dangers of ordinary abstract monism, and desires to substitute for it a notion of sovereignty that represents not a part, but the complete unity of the social whole. The pluralists urge that sovereignty is not merely government, merely law as promulgated by the government, not even merely the will of the people as political beings, but represents the harmony of the articulate wills of individuals projected into a functional system. This sovereignty, therefore, is not unilateral, but manifold

in its content ; it gives expression not only to politics, but to the social, economic, religious, and other essential wills of the individual. In its concrete realization it demands a social organization far more complex than the traditional state ; it calls for group-organization and a multicellular democratic organism ; it demands, in short, the " pluralistic state ". If we have not thus seriously misread the meaning of the pluralists, it is correct to say that the theoretical and practical significance of their position is very great. It is true, of course, that in its negative and destructive aspect pluralism often becomes extravagant and inconsistent. As students of politics, however, we must be as generous in recognizing the merits of a theory as we are careful to find its faults. We can arrive at no sound theory of politics unless we see the real truths in both monism and pluralism, and accept these truths without prejudice.[1]

[1] It must not be supposed, however, that we recommend eclecticism in political theory, or that we strive to effect an artificial compromise between these apparently opposed theories. As our discussion elsewhere shows, monism and pluralism are merely relative terms ; a true theory must be monistic as it must be pluralistic. Our terminology depends largely on our point of view and the emphasis which we wish to lay upon the one or the other. A concrete example will serve to make our meaning clear : Hegel's political theory cannot be described as monistic, in the vulgar sense ; yet it is not exactly pluralistic, unless by pluralism we mean a theory which conceives unity as a *concrete* system.—It is Hegel's fundamental aim to develop a state-concept which is a unity-in-diversity. This seems to be also true of Dr Rudolf Steiner, a contemporary non-pluralistic (or, perhaps, non-monistic) writer. In his *Die Dreigliederung des sozialen Organismus* he conceives of the political state as one of the three great systems in the social order, co-operating to achieve the unity of human spiritual end.

The ultimately monistic tendency in the present pluralistic theory has already been hinted.

CHAPTER VII

PLURALISM AS A POLITICAL THEORY—(*continued*)

(*B*) *The Problem of the General Will*

If the theory of sovereignty is the corner-stone of modern monistic theory in general, the doctrine of the general will, as first propounded by Rousseau, supplies the foundation upon which modern idealist politics is constructed.[1] The general will, therefore, as we should naturally expect, is another monistic *bête noire* to the pluralists, as vicious as sovereignty and equally hateful.

None, perhaps, has voiced this sentiment more strongly than Mr Cole. "If", he writes, "the doctrine of a real will [i.e. a general will] different from anybody's actual will is accepted, all arguments for democracy, that is, government by the actual wills of the ruled, go by the board. But so equally do all arguments for everything

[1] See Professor Muirhead's article, "Recent Criticism of the Idealist Theory of the General Will", *Mind*, n.s., 33 : 166-75. Mr Muirhead shows how the theory of the general will grew out of the need to reconcile the discipline of legal authority with the liberty of the individual, after the natural rights theory had shattered the mediæval conception of society as an organic unity. He maintains that Hobbes was the first writer to attempt such a reconciliation, but he saved the will at the expense of generality ; Locke made a second attempt, but he secured generality by breaking the will into fragments. It was Rousseau, Mr Muirhead says, who first succeeded in establishing a true principle of the general will. From Rousseau, subsequently, Kant, Hegel, Bosanquet, and others take their point of departure.

else ; for we are left without means of ascertaining the nature or content of this real will. The content of actual wills we can know up to a point : the content of the real will we cannot know at all. We can know what we believe to be good, and thereupon, by a quite gratuitous assumption, assume our conception of the good to be the content of everybody's real will."[1] Thus stated, the central objection Mr Cole raises against the theory of the general will seems to be that this theory implies a separation of the *ideal* from the *actual*—that, in other words, the general will, being supposedly different from the particular wills of individuals, must have a content *apart* from the particular ends which individuals desire to realize. An exaltation of the general will, therefore, would result in an exaltation of the will of the state at the expense of individual freedom ; Rousseau's doctrine seems, in this way, to supply another argument for political absolutism.

Such a charge, however, cannot be fairly made against all theorists who accept the general will, particularly against the idealists who are at once followers and critics of Rousseau. To be sure, we must admit that Rousseau himself has not been altogether successful in defining the precise relation between the general will and its actual organs of expression, a defect which idealists as well as pluralists have pertinently pointed out.[2] Nevertheless, it must not be forgotten that considerable improvement has been made in the Rousseauan conception of the general will by the

[1] *Social Theory*, pp. 92-3.

[2] Bosanquet, *Philosophical Theory of the State*, pp. 115-7. Cole, " Introduction " to his translation of the *Social Contract*, p. xxxiii.

idealists who attempt to show that political unity is not a transcendent oneness, an abstract entity far remote from the consciousness of the individual. Such, for instance, is the contribution of Hegel to political theory. For he not only maintains that the general will, as a concrete will, must represent the unity of particular ends, the ends as actually pursued by individuals, but insists that any theory which fails to take account of the diversity of actual wills in the community is the product of "abstract thinking", and hence false.[1] In fact, as we have noted before, it is upon this very ground that Hegel emphasizes the necessity of "class representation" in the national assembly, so that particular wills are permitted directly to make their contributions to the general will. The general will, therefore, according to Hegel, is not a will separated from the actual wills, as the pluralists allege; it represents really the unity and harmonious working of these wills. Harmony, however, we may add, is not the only way in which the general will exhibits its activity. In the concrete world of politics, the general will reveals its vigour through the conflict and struggle between particular wills (whether the wills of individuals or groups) no less than through their co-operation and agreement. A conflict, in fact, may indicate merely a passionate and arduous striving toward the realization of the general will; and, consequently, in a healthy society, each clash of particular interests should result in some profound harmony of wills, which would be impossible otherwise. There are, of course, instances in which conflicts become insoluble and warring wills remain

[1] *Philosophy of Right* (Dyde), § 258 *et passim*.

recalcitrant. In such cases society betrays its lack of inner vitality, revealing a pathological condition symptomatic of the death of the general will and the final disintegration of society itself—an unfortunate situation which neither the idealist theory nor any other theory can pretend to remedy.

We have made clear the fundamental idealist position[1] in order to answer the charge of the pluralists that the theory of the general will implies a separation of the real from the actual. Let us now examine Mr Cole's argument that the content of the general will, being general, is beyond the comprehension of the individual person, whose intelligence is ordinarily limited to the perception of some particular good, and that it is, therefore, vicious intellectualism to bring a notion of the general will into political speculation. For if, as Rousseau maintains, only the common good can be legitimately included in the general will, and a concord of particular ends can at best yield merely a " will of all ", we should have to recognize the fact of the predominance of particular interests in political action, and conclude that the general will can be discovered only under certain highly exceptional circumstances.

Our answer to Mr Cole here is not to be found in Rousseau, but, again, in the idealists. For while we agree with Rousseau that the true content of the general will is the general good, we do not accept his assertion that the actual wills through which it realizes itself must, in all instances, be conscious of the general good. We maintain, on the contrary, that it is the nature of particular wills to be

[1] Cf. Bradley, *Ethical Studies*, pp. 145 ff.; Green, *Prolegomena to Ethics*, pp. 158 ff.; *Works*, ii, pp. 104 ff.; Bosanquet, *op. cit.*, ch. 5.

particular; indeed, a sound theory of politics does not consist in discovering the means whereby particular wills may be transcended, but in seeing how true generality may manifest itself in and through particularity. The particular will, then, in order to participate in the general will, does not have to abandon its intimate content; it merely needs to make its content ultimately *social*. That is to say, so far as a particular will seeks an end which brings advantage directly to the individual himself and his immediate group and indirectly to society at large, so far that will, in its very particularity, is a living voice and instrument of the general will.[1] We do not deny, of course, that an anarchism of particular warring interests is always possible, as when particular wills are not merely *selfish* but inherently *anti-social*. Here again, however, we must observe that the possibility of social disintegration is no argument against the theory of the general will, which professes primarily to take account only of the normal conditions of society, leaving all its abnormal functions to the practical art of social pathology.[2]

[1] Cf. Hegel's suggestion that the Spirit of World History realizes itself through the private passions and interests of great men who, he says, "have formed purposes to satisfy themselves, not others". Self-interests, however, do not prevent them from being benefactors of World History in so far as the purposes they form are truly great purposes—namely, ends which substantially coincide with the end of History. In this way, great men may shape the end of history without consciously discerning this ultimate end. See *Philosophy of History* (Sibree), Introduction, pp. 24 ff.

[2] The demarcation of spheres between political theory and social pathology may be compared to that between the science of physiology and the practical art of medicine. The physiologist discusses the human body from a study of its natural functions, and it is the business of the physician to know the causes and conditions of disorders. It would be irrelevant to criticize the former, therefore, by pointing out that his study of the human body does not hold good for sick persons.

Whatever may be the merits of the idealist theory, it is clear that its notion of the general will does not imply an extravagant intellectualism, as the pluralists suppose. All it means is that the particular will, in order to be true to its particularity, must be sufficiently enlightened to perceive what its real good is and where private interests tend to become anti-social. It does not assume that the average citizen possesses some super-human farsight, nor demand that he display any transcendent altruism, forgetting his selfish ends and volunteering directly to promote the common good. It recognizes that in so far as a person clearly perceives his own true will (for we must always admit the possibility of personal ignorance and error), he perceives also, immediately and actually, the true content of the general will—although only in his own personal way and from his private point of view. Thus, the general will, to borrow a philosophical analogy, is a sort of "pre-established harmony" in society, the happy co-operation of individual wills in promoting, more or less unconsciously, the general good. Such a harmony, however, being achieved through efforts of democratic education and enlightenment, is nothing mysterious or divinely ordained, and, hence, not beyond the power of the practical statesman.

The general will may be interpreted even more positively. It may be regarded as an objective and reasonable justification of political power, without which no democratic government can have any real meaning. Democracy, we say, has freedom for its essence, but requires compulsion for its effective maintenance. It is, in other words, at once freedom and coercion. It is freedom to those whose wills

themselves are free, but it must force its decrees upon others who have not grasped the fundamental meaning of democratic government.[1] Thus, no democracy promises freedom to criminals and idiots, simply because criminals and idiots are by nature not qualified for freedom. We build penitentiaries and asylums to confine them, against their whimsical wills, not merely because penitentiaries and asylums are effective means to keep them from doing harm to society at large, but because these institutions are in perfect accord with their nature, i.e. with their ultimate good. On the other hand, we must recognize the fact that the wills of normal persons differ widely. Social organization, therefore, necessarily involves the submission of wills to wills, voluntarily as well as by compulsion. Unless we establish an objective principle of social good by which the rightness of this submission is to be tested (for we must admit that all wills, the wills of the majority and the wills of the minority, are fallible), we shall lead our theory into endless contradiction and confusion.

To make our meaning clear, we can do no better than to show the absurdity of Mr Cole's contention that politics can deal only with the actual wills of individuals, and that to admit a principle of the general will is to surrender all arguments for democracy. (1) In so far as we maintain that the actual wills as such are the ultimate principle of political organization, we must admit that each actual will, being actual, is as good and as authoritative as any other

[1] We recall, of course, Rousseau's well-known dictum that in compelling a person to obey the general will he is really " forced to be free ". *Social Contract*, i, ch. 7.

actual will. (2) Since, as Mr Cole insists, the actual will knows only its own content, and the attempt of any other will to interpret its content is a " gratuitous assumption ", it follows that the actual will, each in itself, is ultimately authoritative as to its own good. (3) But Mr Cole has also asserted that there can be no general good because, in the absence of a general will, the general good is a political Unknowable. (4) It follows, therefore, that since the individual good is the only good, each actual will must also be the ultimate authority over all social relations ; and, conversely, that no social authority is acceptable, unless its commands seem to the individual's will to be for his own good. (5) Consequently, we are forced to admit that in a truly democratic society (in Mr Cole's sense) nothing should be done except with the consent of each and every actual will that it be done ; and that where unanimity is lacking, all social organization falls short of democracy.

The absurdity of Mr Cole's position, however, is not fully apparent until we try to apply it to the realm of social legislation. Let us see. Since the legislator is not, in the first place, identical with the diverse individuals for whom he legislates, and on the other hand, also not in possession of an objective principle of legislation (e.g. the general will), he is required not to make good laws, but to perform the impossible task of trying to *guess* the content of every individual's actual will, which, according to Mr Cole, is not knowable to other persons. A law, therefore, upon this theory, can at best be a good guess as to the actual wills of people. In so far as it comes into conflict with the conviction of any individual, he has a right to disobey it.

Here, indeed, the situation is exactly the reverse of that represented by Rousseau. For Rousseau, when a person finds his will at variance with the law, the ground for his obedience is that his own interpretation of the content of the general will may be mistaken, and that, ordinarily, there is safety in numbers. For Mr Cole, however, a law which seems bad to an individual is *actually bad* because it represents merely a wrong guess on the part of the legislator as to the individual's actual will ; and, consequently, so far as we admit the individual's actual will to be the ultimate social authority (as Mr Cole does), there is no valid ground of authority whatever for that law. Under such circumstances, the legislator may do anything he pleases with the law except enforce it or punish the individual for disobedience. For having already admitted that a particular will knows no general good, we can no longer fall back upon the argument that social welfare demands obedience even to a disagreeable law—especially a law which the actual will of an individual perceives to be contrary to its own content. On the other hand, an appeal to the majority-principle would afford us just as little help. Remembering that the majority-will cannot possibly imply, on Mr Cole's theory, any conception of a general good, its binding force must rest either on the assumption that the actual wills of certain individuals, i.e. of the minority, are ignorant of their own content, or that they do know their own good, but that the ends they seek to realize should be suppressed in so far as these are incompatible with the ends desired by the actual wills of the majority. Now if we admit that the actual wills of some individuals may err as to their own

content, and that, consequently, at times other persons are allowed to interpret these wills, we not only abandon our initial position which Mr Cole has so ardently defended, but we make a fearfully complicated matter of politics. We attempt to ascertain the fallibility of actual wills which, by definition, are known only to the individuals who possess them. If, on the other hand, we prefer to hold that the ends of the minority are negligible in so far as they come into conflict with those of the majority, and if, at the same time, we refuse to accept an objective principle of social good by which the relative value of particular ends may be appraised, we simply insist upon the unlimited power of the actual wills of the many, which, by sheer force of number, possess the right to dominate the actual wills of the few.[1]

[1] We may point out in passing that this dilemma inheres not only in Mr Cole's theory, but in all theories which take a more or less solipsistic view of the individual. English Utilitarianism, especially as represented by Bentham, is a classical example. Aside from the difficulty of making a consistent transition from the principle of the happiness of the individual to the happiness of the social aggregate, we are convinced that while Bentham professes only to promote the happiness of the greatest number, his own theory seems to require the promotion of the happiness of all. Let us put our argument in this way : (1) If we accept the Utilitarian premise that the happiness of each is good, we must also agree that the happiness of everyone is good. (2) Since, according to Bentham, everyone's happiness is of equal importance (each, as he says, is to count for one), nobody's happiness should be overlooked, or even merely abridged, in the hedonistic calculation. (3) And if pleasure-experience is an individual matter, that is to say, if the individual is the best judge of his own happiness, the judgment of each individual, no matter how different it may be from the judgments of other persons, can never, on any Utilitarian principle, be neglected. (4) From the above it follows that a law is strictly un-Utilitarian, if it does not convince the individual (every individual) of its pleasure-content, or if it is not intended to promote the happiness of all. (5) Furthermore, if the majority impose this law upon the dissenting minority, we must justify this imposition either by insisting that the minority are

We do not deny, of course, that the concurrence of actual wills is a necessary condition of democratic government, and that majority consent is the only mode in which it can effectively operate. We must emphatically deny, however, that this constitutes the essence of true democracy, and still more that the problem of good government and just laws is simply the problem of securing the approval of a large number of actual wills. Here, a theory like that of Kant (a will-theory, we should note) is particularly helpful. Kant, we remember, holds that the test of a good law does not lie in its actual enactment, i.e. in the actual consent of individuals, but in its substantial agreement with the wills of individuals as rationally free. A law, in other words, is just if it is consistent with the principle of Right and hence may secure the *possible* consent of the people, although, at a given moment, circumstances may be such that it appears so repugnant to many citizens that their *actual* consent is temporarily withheld.[1] From the standpoint of expediency, it is indeed wise for the legislator not to come into direct conflict with the wills of the majority by venturing to enact this law immediately, or by enforcing it sternly against the violent protests of the people. Yet

wrong in their judgments of happiness or that, although the minority are right as to their own happiness, their opinions, being at variance with those of the majority, should be neglected. (6) In the former case, we contradict our initial premise by admitting that some individuals are not the best judges of their own happiness, or that happiness may exist apart from the pleasures as perceived by the individuals. (7) In the latter case, we inconsistently reduce the Benthamite formula : " Each counts for one, no one for more than one," to a new formula : " Each in the majority counts for one, all in the minority count for none ".

[1] *Principle of Political Right* (Hastie), p. 47.

while the conviction of the legislator that this law is in agreement with the principle of Right may be mistaken, the mere fact that it fails to meet the approval of the mass does not prove that it is necessarily a bad law. On the other hand, it is quite conceivable that the actual consent of the people may often give rise to inherently bad laws, particularly when skilful but unscrupulous politicians succeed in corrupting public opinion to support some harmful legislation, thus demonstrating the sad fact of the fallibility of the majority-will.

The great truth in Kant's theory, which we are here concerned to bring out, is that an *a priori* principle of legislation is indispensable to any form of good government —*a priori* in the sense of an object principle of law, which transcends the merely contingent desires of the individual at any given moment. In spite of Mr Cole's emphatic denial,[1] we must always recognize the existence of a " better self " in the individual who, not being in possession of perfect social intelligence and political virtue, is fallible as touching his actual will. Democracy, therefore, means infinitely more than mere " self-government ", which is by no means identical with good government, and which, when deprived of a rational principle, could easily transform a nominal democracy into a real tyranny of the rule of power. Democracy is freedom ; but it is only the freedom to do what is consistent with Freedom. It is self-government ; but only the self-government of the truly Free Will.

It is clear from the above, then, that in every truly

[1] *Social Theory*, p. 91.

democratic law there is an element of oughtness, which, to use Kant's terminology, may appear to the individual's actual will as a "categorical imperative". Law, therefore, is the explicit command of an ideal, to be realized by the people through self-government. For this reason, democratic legislation may sometimes justly be legislation *in spite of actual wills*. The most urgent problem of self-government is to discover the means whereby actual wills may be enlightened so that they will not present too strong an opposition to good legislation, but will, instead, give to it their positive support.[1]

Mr Cole, we fear, and likewise all pluralists who controvert the general will theory, hold a wrong conception of democracy because they wrongly define its real ground of justification. Mr Cole has pertinently pointed out that the power of the state depends upon the consent of the governed; despotism no less than democracy rests upon the people's willingness to yield.[2] But, unfortunately, he confuses the necessary condition of a state with its essence,

[1] The slave question in American history is a good illustration. The actual wills of the Southern slave-owners were definitely opposed to emancipationist legislation; they were, in fact, so strongly and uncompromisingly against the North that they did not hesitate to engage in civil war and secession. The North, on the other hand, were firmly convinced of the inherently democratic nature of their cause, and their war against the South indicates a desperate attempt to educate a great number of ignorant actual wills to the realization of the ideal of universal freedom. Thus, waiving all economic and practical considerations, the triumph of the Union, from our point of view, marks a gigantic step in the progress of American democracy. On Mr Cole's theory, however, in so far as the North sought to suppress the actual wills of the South and to impose their conception of democracy upon them, the Northerners made a "gratuitous assumption", and the emancipation movement must be regarded as one of the greatest sins ever committed by the United States against democracy.

[2] *Op. cit.*, p. 92.

and, therefore, fails to enlighten us concerning the principle which separates despotism from democracy. Can the difference between these be merely a matter of degree, as Mr Cole seems to think? "If the members consent to despotism", he says, "well and good". In that case, why all this excitement about democracy—unless, indeed, there is something inherently wrong in despotism? For those who accept a positive principle of government the answer is not difficult: despotism is bad because it is *bad* government. Although people may consent to be governed by it, despotism is still despotism, and obedience to it cannot transform it into democracy. For Mr Cole and those who insist upon the ultimacy of actual wills, however, "good" and "bad" are for ever banished from political theory. An actual will is an actual will; whatever people desire, circumstances permitting, should always be allowed to be realized. The central problem of politics is, then, to discover how to get one's will accepted by the majority (or the influential part of the people) and to keep the majority from going too far in arousing the opposition of the minority.[1] "Democracy", in this sense, would seem to be a despotism of free competition, in which everyone who has sufficient ambition may make himself a despot, by imposing his actual will upon other persons. The pluralists fail to see that majority-tyranny is one of the most terrible forms of tyranny, and that it is democracy,

[1] We quote this from Mr Laski: "The sovereign is the person in the state who can get his will accepted, who so dominates over his fellows as to blend their wills with his". *Problem of Sovereignty*, pp. 16-7; cf. p. 14, and *Grammar of Politics*, p. 35.

as the community of ethical ideal, that justifies self-government or the consent of actual wills. It is not actual wills, in their idiosyncracy and ignorance, that create genuine democracy. The theory of the general will is not without its difficulties. As a theory of democracy, however, it possesses at least this advantage over the opposing theory that it affords an objective principle of law and social authority, by which the possibility of sheer majority-force —of the despotism of wills over wills—is reduced to a minimum.

With the pluralistic criticism of the general-will theory thus partly answered, let us now proceed to show that while pluralists in general uncompromisingly denounce this idealist theory, they finally seem to admit, in one way or another, the need of an objective social principle which either resembles Rousseau's conception of the general will in substance or is an inferior substitute for it. We begin with Mr Cole's notion of functional organization, the really constructive side of his theory. Function, he maintains, implies a standard of social value which, flowing from the individual's judgment of the sort of social life he desires to realize, selects and places divergent, unrelated social purposes into a coherent system.[1] It appears clear to us that whatever standard of social value we may choose to adopt, this standard, if it is to be acceptable to all, must come, not from the individual will which concerns itself with a particular good from its own private view-point as such, but from the will which judges a common good from

[1] *Social Theory*, pp. 53 ff.

the standpoint of the community in general.[1] For a will that is concerned with a particular value may only represent a particular *claim*, which claim may be perfectly legitimate and valid but still fails to yield a universal criterion, which Mr Cole's functional system requires. The will of the individual, in other words, as the sovereign judge of social value, is exactly identical with Rousseau's general will, which regards all particular interests as formally irrelevant, taking into consideration only the general good as its content. Moreover, the individual will which sets up such a value-standard possesses its authority, not by reason of its being the actual will of the individual, but by virtue of the universally objective content, i.e. the general good, which it embraces. For if it passed its judgment upon a particular function merely as an individual will, it would merely assume, as Mr Cole says, its own conception of ultimate social value to be also the content of every other person's will. Its judgment would merely be a " gratuitous assumption ".

The theories of Dr Krabbe and M. Duguit have a more obvious affinity than that of Mr Cole with the general-will theory, more obvious, perhaps, than these writers themselves realize. The identity of Dr Krabbe's principle of the ' sense of right " (which is present equally in every individual) with the general-will conception of Rousseau has

[1] " Each of us ", Mr Cole says, " has in his mind, whether we rationalize and systematize it or not, some conception of the sort of social life which is ultimately desirable. Our conception of the functions of particular associations are inevitably formed in the light of our ultimate conception of social good ". *Ibid.* It is a little difficult for us to reconcile these ideas with the passages on pp. 92 ff. of the same book.

already been suggested in a previous place.[1] We need here only to say a few words concerning M. Duguit's hypothesis of " social solidarity ", which, we remember, is the centre and core of his realistic jurisprudence. All law and social authority, M. Duguit maintains, are derived from objective right, which latter in turn springs from the principle of social solidarity, a universal psychological fact observable in the minds of the modern social-individual.[2] It is apparent, then, whatever be the content of this solidarity-consciousness, the social-individual, when he is engaged in the office of law-making, must take into

[1] We wish to point out here Dr Krabbe's interesting criticism of Rousseau's theory. He maintains that in the " legal community " a single rule of law possesses a formal value higher than that attached to its content. Whether a person regards a certain law to be in accordance with his notion of good or not, he must yield to it his obedience ; because " for those whose convictions accord with the rule, the obligation to obey the law rests upon the value of the *content* of the rule ; for others it is based upon the value of a single rule ". (*Modern Idea of State*, pp. 74-5). This doctrine of formal obedience, we think, is intended to overcome the difficulty which Rousseau has in seeing how the actual majority will, which gives rise to law, is necessarily in conformity with the general good. Dr Krabbe recognizes, with Rousseau, that the individual is liable to interpret wrongly the content of the general will ; he perceives, however, that there is just as much chance for the majority to be mistaken concerning the general good—a fact which Rousseau fails to note with sufficient clearness. To require the individual to admit his fallibility every time he finds his will at variance with the majority will, therefore, would tend to establish the tyranny of the majority, a thing which Rousseau himself would not permit. If, however, we do not regard the dissenting individual will as necessarily mistaken (although it may be) concerning the content of the general will, and, consequently, require it to obey the rule established by the majority simply by emphasising the value of universal obedience, we can save (Dr Krabbe seems to think) the freedom of the individual without also sacrificing social authority and order.

This criticism is highly interesting. If, however, it really overcomes the difficulty it intends to correct in the notion of the general will, it is a vindication rather than a denunciation of Rousseau's theory.

[2] *Traite du droit public*, pp. 44 ff., 77 ff.

consideration not any partial interest or private good as such, but the principle of solidarity, which bears upon the entire complex of social relations. The will of such an individual, therefore, appears to be merely Rousseau's general will in a strange garb.[1]

The only pluralist of note who has completely discarded the theory of the general will is Mr Laski, although we confess that it is inaccurate to classify Mr Laski as a true pluralist after the recent revision of his theory.[2] "The will of the state", he writes, "is the will which is adopted out of the conflict of myriad wills which contend with each other for the mastery of social forces."[3] The state-will, then, as Mr Laski conceives it, is the survival-will after a Darwinian struggle among numerous individual wills; it represents, on that account, not the will of the entire community, but merely the dominant will which has

[1] The monistic character of M. Duguit's theory has been pointed out by Mr Laski, *Foundations of Sovereignty*, p. 109. We shall have occasion to discuss the deterministic tendency of M. Duguit. See below, ch. ix.

[2] There seems to be more than one trend of thought in Mr Laski's theory. In the first place he professes discipleship in the liberal Benthamite school, characterizing his theory as "a special adaptation of the Benthamite theory to the special need of our time". Secondly, he seems to emphasize the idea of individual rights, which, presumably, in a special adaptation of the natural rights theory to suit the present time. (See *Foundation of Sovereignty*, p. 246; *Grammar of Politics*, p. 91). And, thirdly, to mention another important influence, the "Kantian background of Mr Laski's ethical individualism" should not be overlooked (see Elliott, *Am. Pol. Sc. Rev.*, 18: 268), which, though valuable in itself, conflicts with his pragmatic empirisiam, borrowed from James.

It should be recognized, of course, that in spite of these cross-currents of thought, the essential position of Mr Laski is that of the individualist, which fact accounts not only for his constant protest against state-authority in favour of individual conscience, but for his recent change of attitude toward the guild socialists, who after all, are the most typical pluralists.

[3] *Grammar of Politics*, p. 35; cf. *Problem of Sovereignty*, pp. 14 ff.

gained, by right of fraud, the control of government at a given moment. Moreover, this partial will is not even necessarily a majority-will. Because the state-will is identical with the will of the government, it is possible that it represents merely the purpose of those who happen to be in political power—the few persons who hold the wheel of the administrative machine. What, we ask, if these persons become tyrants, that is to say, if they govern primarily for the good of their own class? Mr Laski's answer would seem to be that a distinction should be made between *tyranny* and *domination*, and that the latter is permissible if it does not oppress the dominated class too far and so passes into the former. For this reason, the people must always be on their guard against the extension of state-power. The wise statesman, on the other hand, is he who realizes that while the people are willing to be tyrannized a little, they hate to be oppressed too much, and thereby to be compelled to rise in revolution. The state, from such a viewpoint, appears to be at best a necessary evil, the service of which we must sparingly enjoy. The whole political theory of Mr Laski, therefore, amounts to a confession of the failure of democracy—of all political organization—to give even the faintest trace of true individual freedom. For him the state-relation is essentially a relation of will-domination: masters there must always be, and slaves are they who are lost in the eternal battle of wills.[1]

[1] It may be noted that the recognition of the struggle between wills does not itself imply a position like that of Mr Laski. A helpful contrast may be drawn between the Kantian conception of social will and that held by Mr Laski. According to Kant, the essence of the will of the state is its

We must not suppose, on the other hand, that Mr Laski's theory is entirely free from monistic implications. He criticizes the guild-socialist idea of functional representation, pointing out that it is unwise to allow functional associations a direct voice in social government.[1] For he insists that the state is somehow above all associations; indeed, it " controls the level at which men are to live as men ", and " must control other associations to the degree that secures from them the service such needs [i.e. the common needs of men] require ".[2] The ethical tinge of the phrase, " men as men "; the insistence upon the priority of their common needs; and the implied recognition of the state as the final arbiter of all social values; all these may easily bring Mr Laski's theory close to the much-hated monistic conception of social will, the general will, which, we suppose, is still as loathsome to him as ever. Yet, waiving the possibility of Mr Laski's unconscious lapse

agreement with the idea of Right (or positive Freedom). At a given moment circumstances may be such that the actual dominating will, whether of the majority or of the ruling class, does not represent the real state-will. People are required to obey it *formally*, not because it is the dominating will, but because social order demands obedience to established authority. It is their duty, however, to enlighten public opinion and the will of the government so that eventually the real will of the state may prevail. (See *Principles of Political Right*, pp. 47 ff.) According to Mr Laski, " the sovereign is the person in the state who can get his will accepted " no matter what content this will may embrace. Presumably, therefore, the minority must obey this will, not because it is in accord with right, but simply because it is the dominating will. Mr Laski, of course, admits that the minority have the right to voice their wills. In so far, however, as he regards the empirical consciousness of the individual as such as the ultimate source of right, the final triumph of the minority-will is again a matter of mere force. The essential difference between these two positions consists in the recognition or denial of the existence of an objective principle of right in political organization.

[1] *Grammar of Politics*, p. 431. [2] *Op. cit.*, p. 70.

into the monistic position, it is still to be noticed that the ideas as here presented seem to fit rather ill in his general position. How are we, for example, to harmonize these with his insistence upon the diversity of social authority based upon men's divided allegiance to various groups, and hence upon their right to set a particular interest against the interest of the state ?[1] We shall grant to Mr Laski that the state, being the representative of the common needs of men as men, must transcend the partial interests of the church and the trade union. In what way, however, can individuals set the church against the state without bringing a partial good into conflict with one which is common to all ?—that is, without bringing themselves, as members of a particular association, into conflict with themselves as men ? We shall grant, too, that the state, as the association for the common good, should have control over all partial associations in order to secure their service to this good. But how can we allow persons to set any of these associations against the state without destroying the very authority which the state must possess in order to be qualified as the organ of association-control ?

Mr Laski may make answer, particularly to our second question, that so long as we give the right to support or not to support the state-will to the individual only and not to the association, the state will not lose the authority belonging to it as the association of men as men. This, however,

[1] " There are, therefore ", Mr Laski says, " as many organs of authority in society as there are bodies which command the assent of men. I shall be with my church and against the state, with my trade union and against the state, if the impact of the state upon my experience seems inadequate compared to the impact of the church or the trade union '. *Ibid.*, p. 251.

really helps us very little. Mr Laski has explicitly denied to organized social interests the right to express themselves politically, as the guild socialists advocate. If we accept this position, it would seem that there is no real sense in which we can say that a person can be " with the church and against the state ", etc., or that any non-political association can " command the assent of men " if, indeed, by assent we mean something capable of definite political interpretation. For the state-will, no matter how partial it may be, is, on Mr Laski's theory, the only group-will which can be politically recognized. To be with the trade union and against the state can mean, therefore, no more than this, that when a person finds his economic interest violated by the state (i.e. the government), he may manifest his protest by influencing his representatives to vote against many governmental measures ; or he may vote against the candidates put forward by the party in power in the future election ; or perhaps he may even resort to violent demonstration and strike. How this is to be regarded as an improvement upon the existing political system is very difficult for us to see. On the other hand, we must remember that since the state is, according to Mr Laski, the sole political organ, any partial interest which desires to secure promotion or protection must naturally seek to identify its will with the state-will. Eventually, therefore, there are not " many organs of authority " in society, but only one, namely, the state ; and the state, being a partial institution, can never possibly represent the interest of men as men, but merely affords the strategic ground upon which " a myriad wills contend with each other

for the mastery of social forces". This, in a word, is the net result of Mr Laski's polemic against the general will and of his endeavour to "particularize" the state. It is the class-war idea coming back in strange disguise.

Let us now conclude by summarizing our long discussion of the problem of the general will. First, we tried to show how Mr Cole, in his uncompromising criticism of the idealist theory, has misrepresented its real meaning; and how, in over-emphasizing the authority of the actual will of the individual, our author involves himself in some insurmountable difficulties. Secondly, we endeavoured to uncover, although more or less incidentally, the true meaning and merits of the idealist theory. We found that although the conception of the general will is beset with difficulties, the theory as a whole cannot be overthrown by the arguments of the pluralists. Thirdly, but not least in importance, we have sought to demonstrate the inherent strength of the idealist position by bringing to light the final *rapprochement* of certain pluralists to the theory of the general will, particularly in the case of Dr Krabbe and Mr Cole. It is not to be inferred, however, that all pluralistic criticisms are futile, and hence that the pluralists end exactly where they started. On the contrary, we are prepared to assert that pluralism, in its insistence upon the fact of diversity and conflict of social interests, upon the fact of the complexity of social organization, and upon the need, consequently, of direct and free expression of legitimate group-wills, has suggested an important improvement in the notion of the general will (as popularly understood) in the direction of concreteness. It has wisely

emphasized a political truth which has constantly escaped the attention of many a writer in spite of the efforts of Hegel and his followers.

(C) *The Problem of Change and Stability in Political Organization*

Political pluralism is not only a doctrine of multiplicity but of change. Pluralists like Mr Laski characterize their attitude as being " constantly experimentalist " ; and as empiricists they refuse to admit any finality in the continual flux of the political process. Their theory, therefore, " does not try to work out with tedious elaboration the respective spheres of state, or group, or individual. It leaves that to the test of the event. It predicts no certainty, because history . . . does not repeat itself ".[1]

This is the uncompromising Heracleitean logic of our present political theorists. None, however, has expressed it more strongly than Dr Krabbe, the eminent Dutch jurist. " Stability of law ", he says, " is a contradiction in terms ".[2]

In beginning our discussion we can do no better than to quote a passage from Dean Pound's significant book, *The Interpretation of Legal History*. " Law ", he says, " must be stable and yet it cannot stand still. Hence all thinking

[1] *Problem of Sovereignty*, p. 23.

[2] *Modern Idea of State*, pp. 61-2. Cf. Pound, *Harvard Law Rev.*, 25 : 505. Dean Pound quotes these words from Wundt : " The development of law is a process of the psychology of peoples, therefore law will forever be a process of becoming." It may be noted also that St Thomas had admitted the necessity of changing the law according to changes in human conditions. *Summa Theol.*, ii, p. 97 ; art. 1a.

about law has struggled to reconcile the conflicting demands of the need of stability and of the need of change. . . . If we seek principles, we must seek principles of change no less than principles of stability. Accordingly, the chief problem to which legal thinkers have addressed themselves has been how to reconcile the idea of a fixed body of law, affording no scope for individual wilfulness,[1] with the idea of change and growth and making of new law ; how to unify the theory of law with the theory of making law and to unify the system of legal justice with the facts of administration of justice by magistrates ".[2] The first point which strikes us here is Dean Pound's clear indication of the relation between the element of change and of stability in the legal process, which, to him, is no mere theory, but is intimately connected with the practical problem of legal administration. Indeed, there seems to be, we think, two distinct but inseparable stages of law,[3] respectively characterized by change and fixity. Thus, in the first place, there is the stage of law-making, representing a process of experimentation, adjustment, and " negotiation " (to use Mr Laski's word), whereby new conditions are being brought

[1] As Rousseau might say, law forces people to be free. The pluralists, however, seem to be opposed to this idea. " Democracy ", Mr Cole declares, " does not mean forcing on people the sort of reforms you want ; in means setting people free, and keeping them free, to determine what it is that they want ". *Labour in Commonwealth*, p. 219. Mr Laski's opinion is no less pronounced. He holds that the essence of freedom is " the absence of force ", namely, social constraint. Thus, to cite his own illustration, to refrain from the use of tobacco on one's own accord is freedom, but to be forced by others, e.g., by law, is not (granting, of course, that the use of tobacco is inherently wrong). *Grammar of Politics*, p. 33.

[2] Published in 1923, p. 1.

[3] See Sabine, " Pluralism : A Point of View ", *Am. Pol. Sc. Rev.*, 17 : 49 ff.

into harmony with the general existing social order. Obviously, these conditions, being new, can admit of no solution based upon pre-determined principles; and the law, being still as yet to be made, possesses no superior authority over the convictions and opinions of the individual, which, in fact, are the true source of the law itself. It is here, therefore, where the experimentalist logic of the pluralists becomes most consistent; where individual opinion, if expressed with sufficient objectivity, deserves careful consideration; and where, before the actual enactment of law is accomplished as the result of social adjustment, no prediction of the legal outcome can be made with any degree of certainty.

Following inseparably from this, however, there is a second stage of the legal process, the stage, namely, of enactment and administration, in which law emerges from experimental uncertainty to definite authority. Here, indeed, in overcoming the disturbances caused by maladjustment, and in turning apparent conflicts into equilibrium through the social intelligence of men, society seems to have discovered, as it were, certain valid rules of the social game, which, upon sanction and promulgation, become unconditional commandments to all its members. A law, to be sure, may chance to be bad, and therefore fit to be repealed; or it may outlive its goodness and justify new legislation. Remembering, however, that there is really an endless cycle of law-making, enforcement, and re-making—of adjustment, equilibrium, and re-adjustment—the repealing of old laws to meet new circumstances indicates merely the beginning of a new phase in the

eternal juristic cycle. So long as we admit the indispensability of law, the possibility of bad laws cannot constitute a cogent argument against the upholding of legal authority in general.

When the legal process is viewed in this light, it becomes at once clear that the pluralistic denial of legal stability points definitely to the path of error and abstraction. In fact, it is not impossible directly to controvert Dr Krabbe's statement by insisting that law *without* the element of stability is a contradiction in terms. For the sake of truth and concreteness, we must agree with Dean Pound that the practical problem of legal administration is as real as that of legal experimentation, and that a law for "convenience", as Mr Laski recommends,[1] is no law at all. We do not intend to assert that stability is the sole quality of law. Indeed, many monists themselves even insist upon the significance of the element of contingency and change in the political process.[2] A theory such as that of Hegel may appear repulsive to the pluralists, yet it has at least one advantage over the pluralistic theory in this that it is not one-sided.

[1] He says: "Law is clearly not a command. It is simply a rule of convenience", which holds good only so far as the individual is willing to give his consent. *Problem of Sovereignty*, pp. 12-3.

[2] Hegel seems to emphasize the importance of mutable elements in society. "Rulers, statesmen, nations", he says, "are wont to be emphatically commended to the teaching which experience affords in history. But what experience and history teach is this—that peoples and governments never have learned anything from history, or acted on principles deduced from it. Each period is involved in such peculiar circumstances, exhibits a condition of things so strictly idiosyncratic, that its conduct must be regulated by considerations connected with itself, and itself alone. Amid the presence of great events, a general principle gives no help". *Philosophy of History* (Sibree Introduction, p. 6). Cf. Mr Laski's dictum, quoted above, p. 207.

With the question of legal stability thus explained, we may proceed to discuss the larger question of social stability in the same light. Society, we agree with the pluralists, is a moving entity, ever evolving and ever growing. It is an evolutionary process in which a deal of Darwinian struggle, as Mr Laski says, may be observed. But if political society is an evolution we must surely find consolidation as well as conflict, integration as well as diversity at every stage. In fact, if we take the idea of evolution seriously—the idea, namely, of the progression from indefinite, incoherent homogeneity to definite, coherent heterogeneity—society appears to be a persistent striving toward unity, a continuous overcoming of conflict and diversity.[1] For what is conflict but co-operation yet un-achieved? What is multiplicity but a coherence partly understood? And what can never-ending social heterogeneity make but a unity of ever greater and richer content?

The principle of change, therefore, rightly understood, not only explains the phenomena of diversity, but leads clearly to a principle of coherence, of concrete unity. A static monism is, from such a point of view, inconceivable; but a static pluralism would be equally unmeaning. The pluralists often triumphantly declare that social conflict is a fact and monism a lie. But, without denying the authenticity of this fact, which is true enough, may we not fairly ask whether we should accept conflict as final and dwell in it without complaint? If, in other words, unity

[1] Cole, "Conflicting Social Obligations", *Arist. Soc.*, 15: 140 ff; cf. Bosanquet's reply to Mr Cole, *Arist. Soc.*, 16; Barker, *Political Thought in England*, p. 183; Haldane, *Contemporary Rev.*, 117: 761-3; Follett, *The New State*, p. 185.

is never complete at any given moment, ought we not to endeavour, for that very reason, to bring unity nearer to us? Perhaps we shall never reach complete unity. But even if unity is an ever-receding goal, our social prospect would become brighter by striving toward it than by remaining in a state of pluralistic incoherence.

CHAPTER VIII

THE PHILOSOPHICAL BACKGROUND OF POLITICAL PLURALISM

Our study of political pluralism would be incomplete if we neglected to examine in some detail the philosophical background upon which it seems to base itself, i.e. the pragmatism of William James,[1] to whom Mr Laski acknowledges a profound intellectual indebtedness.[2] We propose, therefore, to show in the following pages, *first*, that while pragmatism takes its point of departure from a general criticism of the traditional monistic philosophy—in particular, of idealism of the Hegelian and Neo-Hegelian type—much of the apparent force of this criticism seems to depend upon a mis-interpretation of the idealist position, and is therefore likely to miss its mark; *secondly*, that granting the attractiveness of the radical empiricist method as a way of looking at reality, it is difficult, if not altogether impossible, to follow this pragmatic "lead" consistently and to arrive at the particular sort of reality which it seeks to envisage; *thirdly*, that although pragmatism emphatically insists upon the fact of diversity and discontinuity in our experience, it not infrequently affirms the possibility

[1] It should be made clear at the outset that we are here concerned only with the pragmatism of James, which he prefers to designate by the name "radical empiricism". *Pragmatism*, p. ix.

[2] *Problem of Sovereignty*, p. 23; *Foundations of Sovereignty*, p. 169; *Grammar of Politics*, p. 261.

of a unity which, when logically pushed, would ultimately and inevitably carry us beyond the circumference of a "pluralistic universe"; *fourthly*, that however valuable and suggestive the pragmatic tendency may appear to the liberal political theorist,[1] it cannot, in view of its many difficulties, be accepted on the whole as a secure basis for a new social-political theory; *fifthly* and lastly, that in spite of the fact that certain pluralists claim allegiance to James, and apart from a general sympathy in spirit, there is no logical connection between pragmatism and pluralism in general, so that a "pluralistic" theory of politics may consistently be built upon some other philosophical position. It is needless to add that, being here concerned with a special purpose, our criticism of pragmatism is intended neither to be exhaustive nor final; and, with this in mind, we wish to solicit the tolerance of the reader if we inadvertently do injustice to this vital trend of thought.[2]

I

The central pragmatic objection to the monistic universe is that, being an all-inclusive entity, it permits neither individuality nor freedom (which, the pragmatist thinks, is possible only when realities are independent and the

[1] Thilly, *History of Philosophy*, p. 571; cf. Mr A. K. Roger's statement that pragmatism is "an expression of the more radical forms of the modern democratic temper, with its distrust of political institutions established once for all, and not subject to the free play of intelligence". *English and American Philosophy since* 1800, p. 360.

[2] For some brief idealist criticism of pragmatism see Royce, *Phil. Rev.*, 13: 126 ff.; Creighton, *ibid.*, 13: 284 ff.; 15: 482 ff.; 17: 592 ff.; Hibben, *ibid*, 17: 365 ff.

relations between them external); and, as an eternally complete system, it precludes all possibility of development, thus rendering our *Weltanschauung* altogether barren and pessimistic. The monist demands unity; but when he integrates everything at the expense of diversity, he acquires a "stiff" unity that spells abstraction. He wishes to play safe by making the world now and eternally complete; but in thus playing safe, he plays into the hands of an absolute which is oppressive if it can be real.

The case of pragmatism *versus* idealism would be permanently settled, that is, in favour of pragmatism, if idealists in general really recognized such a block universe as the content of their thought. The fact, however, is that respectable idealists not only disclaim such a wooden conception of reality, but themselves would be quite willing to line up with the pragmatists to wage a united warfare against their common enemy, the philosophy of abstraction.[1] The pragmatic charge against idealism, therefore, seems to be a false charge—doubly regrettable as it is brought against a possible ally and friend.[2]

In the first place, we may answer the pragmatist by showing that while idealists insist upon the all-inclusive character of the world, they do not thereby merge all distinctions and individuality into this unity, but dwell, on the contrary, rather emphatically upon the significance of finite entities in and through which only infinitude can be

[1] Cf. Creighton, *Phil. Rev.*, 17: 592.

[2] It seems to us true that, in the more lucid moments of our thought, we are all in some sense monists as well as pragmatists, rationalists as well as empiricists. "Radical empiricism" would itself be an abstraction if it meant *anti*-rationalism, in the more general sense of the latter term.

comprehended. The views of Dr Bosanquet are fairly representative and particularly interesting in this connection because they have been directly attacked by some pluralists. Far from asserting the abstract character of world-unity, he declares that "it takes all sorts to make a world".[1] The concrete universal, in other words, represents a unity derived from a connection within particulars,[2] and this unity can be all-inclusive only by virtue of its unreserved recognition of every element of diversity which it must transform but does not annihilate.[3] It needs to be pointed out, however, that, for Dr Bosanquet as for many other idealists, the true problem of philosophy is not so much to discover whether the world is *substantially* one or many as to understand the varigated experience that obtains within it in its ever-growing richness. Idealists never worry over the question whether the world is an indefinitely-shaped rubber ball with the pragmatically desirable qualities of pliability and incompleteness, or whether it is made of a solid mass of some stiff substance

[1] *Principles of Individuality and Value*, p. 37.

[2] Bosanquet, *op. cit.*, p. 291.

[3] *Ibid.*, pp. 240-3, 260, where he maintains that evils and impotence are integral elements of reality. Cf. this statement: "A world or cosmos is a system of members, such that every member being *ex hypothesi* distinct, nevertheless contributes to the unity of the whole in virtue of the peculiarities which constitute its distinctness." *Ibid.*, p. 37. Modern idealism, at least since the time of Hegel, has clearly outgrown the antiquated problem of "the one and the many". It would be really strange if a philosophy that starts with "an analysis of the objective" world should wind up by denying the concrete manifold existing in that world. It is not so difficult to see, however, that it is possible for radical empiricism to start from fragmentary experience and end with it—particularly if we agree with Signor Papini that pragmatism "is really less a philosophy than a method of doing without philosophy". Quoted by Hibben, *Phil. Rev.*, 17: 365.

that fulfils the specifications of a block universe. What really interests them is, rather, the inter-relationship within experience whereby reality becomes transparent to thought and the values and meanings of the things we encounter in our mental and physical life present themselves in a coherent order.[1] Nor, indeed, are they discouraged by the fact that unity and coherence is never at any given moment actually complete, and that human knowledge being limited, there are always knowable things unknown. For so long as all thinking is not futile, the world, no matter how divergent its content, is ultimately accessible to coherent understanding; and granting that the true unity of the world consists in the intimacy and intelligibility of the relations between its members—a fact which science as well as philosophy can bear out—the idealists need not resort to any block universe in which everything is integrated "*durcheinander*",[2] as James says, in order to uphold their monistic thesis.

That the idealists do not insist upon an "eternally complete"[3] world in which all possibility of improvement and growth is precluded is easily seen. In accepting completeness as a conception of teleology in terms of a

[1] Cf. Creighton, "Two Types of Idealism", *Phil. Rev.*, 17: 514 ff.

[2] James, *Radical Empiricism*, pp. 266-78; *Problems of Philosophy*, pp. 135-7; *Pluralistic Universe*, p. 325.

[3] James describes the idealist universe as "the infinite folio, or *édition de luxe*" of reality, eternally complete. It may be inferred, then, that the pragmatic universe is a cheap popular edition of it, eternally incomplete. Now, if we are collectors, it seems that some clever "sales-talk" is needed to convince us of the superior value of the incomplete edition over the complete, especially when the former is so loosely bound and many of its pages so mischievously disarranged. Ordinarily, we are willing to pay comparatively little for such an edition of any book.

coherent system of value-relations,[1] all improvement and progress is for the idealists simply an effort to bring the actual order of things nearer to the ideal order of perfection, namely, by the progressive determination of some items of the value-system that are as yet implicit, and by the fulfilment of those which have already been definitely determined.[2] Far from denying the possibility of progress, then, the idealists are compelled by their own thought to recognize it; and, in fact, their conception of the world would lose much of its meaning if reality were not grasped as a continuous process of development, incomplete as it is at any given moment. On the other hand, the idealists maintain that while reality is development, it is not an aimless tychism, a cosmic delirium so dear to the "happy-go-lucky sort of anarchistic creature".[3] The idealists do

[1] Bosanquet, *op. cit.*, pp. 136 ff. Cf. Creighton, *Phil. Rev.*, 6: 168.

[2] A concrete illustration is found in the ideal of freedom in its progressive realization in the historical democratic movement. This ideal was first announced in the West by Aristotle in his famous dictum, "man is a political being". This originally inclusive but indeterminate principle is subsequently developed in Western political history through its progressive determination in conceptions of law, rights, self-government, etc., and through the fulfilment of these determinate democratic values as observed in changes of actual social conditions and institutions—e.g., the transition from monarchy to the republican form of government, the abolition of slavery to the recognition of universal citizenship, etc. Unless, therefore, we are willing to regard positive freedom as an eternally complete (and hence empirically incomplete) system of political values, we can hardly conceive history as a course of definite progress; and, in face of the many contingent evils incidental to democratic government, it could be easily argued that the amelioration of existing conditions demands a return to monarchy, or some other form of government which the "reformer" thinks good. Cf. our previous discussion in connection with the "actual will"; above, pp. 185 ff.

[3] James' phrase. *Pragmatism*, p. 259.

The demand for unity and completeness is not the exclusive evil of the idealist philosophers, if it be an evil, but is shared in common by the

not wish to play too safe ; they are willing enough to take a certain amount of reasonable risk. But what they desire emphatically to maintain is that we cannot speak of amelioration or progress, as the pragmatist does, unless we speak of it in terms of a determinate teleology ; that is, unless we have an objective standard of value which transcends the subjective purpose of any mere change. To speak of progress without such an absolute reference is like sauntering back and forth on Main Street and thinking that one is getting somewhere. Indeed, development without an eternal system of values is a contradiction in terms.

natural scientists, even the evolutionist biologists. The entire organic world, viewed from the standpoint of evolution, is actually incomplete, i.e., eternally developing. But, the fundamental laws of organic life being understood and the definite generic relations between individuals and species being ascertained, the biologists, nevertheless, arrive at a world which is complete and thoroughly unitary, a world in which novelty and development are seen to be intelligible facts rather than sheer miracle. Even sudden mutations, the causes of which are generally unknown, do not throw the biological universe out of gear. In so far as the new individuals or new species thus produced can be assigned some definite places in the organic system, they are one with that universe. On the other hand, while the biologists are unable to foretell what may happen in evolution, they are reasonably sure of what cannot happen. Thus, although one is not sure whether, in a given case, a desired type may be produced by animal-breeding, it is certain that no skill or chance can produce a Pegasus by crossing the horse with the eagle, or some more appropriate bird. The Pegasus, if procurable, would doubtless be a useful animal ; but why is it so far a biological impossibility ?—especially when so many wonders are being performed by man in the direction of breeding and improvement, e.g., the breeding of a particular type of horses for the purpose of racing, the production of a large variety of fancy dogs, not to mention the numerous plant-creations of Luther Burbank. The pragmatic tychist would, perhaps, answer that a Pegasus may be possible, but it has never been done. A good biologist, however, would explain that a Pegasus is impossible because the biological universe is too much of a " block " to admit such an " anarchistic creature ". It seems true that any scientific system, in the very nature of the case, has to be a monistic universe, and that the admission of real tychism would be a death blow to science.

When the idealist position is thus understood, it must be obvious that the pragmatic protest against a block universe can hardly be regarded as a fair criticism of idealism. We do not here wish to assume the pretentious task of vindicating this philosophy; for the sake of fairness in argumen and accuracy of thought, however, we have at least the right to point out that there is more than one sort of comprehensible unity, of *Weltanschauung*. And if pragmatism objects (rightly, of course) to one sort, it must not be too hasty in declaring its victory without meeting all arguments in favour of some other kind. A block universe may be really execrable, but this is no proof that a concrete universe is worse than a multiverse.

II

Passing now to our second point, we wish to demonstrate that if the fundamental premises of radical empiricism are accepted as valid, it is very difficult to arrive through these premises at the particular sort of reality which it desires to grasp, a reality, we understand, which occupies a middle ground between the block universe of abstract monism and the atomistic world of pluralistic realism.[1] To be brief, we will summarize our discussions in the following order:

[1] James writes: "With her [pragmatism] criterion of the practical difference that theories make, we see that she must equally abjure absolute monism and absolute pluralism. The world is one just so far as its parts hang together by any definite connexion. It is many just so far as any definite connexion fails to obtain. And finally it is growing more and more unified by those systems of connexion at least which human energy keeps framing as time goes on." *Pragmatism*, p. 156.

(1) Let us begin with the pragmatic criterion of truth that an idea is true if it possess some subsequent utility.[1] Now admitting the efficacy of such a test in the case of certain ideas, perhaps a very large number of them, it is still to be questioned whether it holds good for all ideas and judgments which do not ostensibly possess any practical content. In fact, we may point out a genuine difficulty of determining truth by its subsequent utility : if an idea is " made true by successive events " which, as James says, are innumerable particular terms in experience superseding each other,[2] it would appear indisputable that when an idea is, it is not yet true, and when the opportunity of verification comes, it has already ceased to be an idea.[3] The real difficulty here, we think, seems to lie in the empirical method of dissecting experience into discontinuous fragments, into a future that absolutely forgets its past,[4] thus rendering the application of the pragmatic criterion theoretically inconsistent. On the other hand, we should not overlook the fact that there are some ideas which, though under circumstances unverifiable and hence pragmatically untrue, cannot be properly said to be false. To take a trivial illustration, let us suppose that a certain Mr Harry Jones had visited Ithaca on January 1, 1926, and that his presence there had been so secretly guarded as to be known only to himself and a certain Mr John Smith. On the next day Mr Jones left Ithaca, and died in some other place on January 3. Now suppose Mr Smith makes a statement on January 4, for no practical purpose, that

[1] *Ibid.*, p. 201.
[2] *Meaning of Truth*, p. 111.
[3] J. E. Russell, *Phil. Rev.*, 15 : 409.
[4] Creighton, *Phil. Rev.*, 13 : 292.

Mr Jones was in Ithaca on January 1, 1926. Is that statement a truth? Apparently not, according to the strict pragmatic test, since Mr Jones being dead, it not only cannot be "made true" by some subsequent event, but even the bare possibility of its factual verification is excluded. On the other hand, however, it is quite sure that Mr Smith would deeply and rightfully resent being called a liar for having made the unverifiable statement, even though it has no practical consequence whatever.[1]

(2) James points out that since we actually find many discontinuities in our experience, the hypothesis of a block universe in which everything is integrated through and through into one single system is totally untenable.[2] Here again, however, we must be on our guard and not let James's brilliant logic inveigle us into irrelevant conclusions. For granting that the least bit of discontinuity destroys complete monism, it is always to be remembered that a distinction must be made between a real break and a merely apparent disconnection, and that, consequently, while finiteness of human knowledge prevents the world from being "*known as* one systematic whole",[3] there is no sufficient pragmatic warrant for asserting that the world,

[1] The pragmatic test of truth seems to possess some profounder meaning than as thus presented, which we shall presently examine. Cf. *Meaning of Truth*, pp. 217-22. In spite of James's apparently plausible explanation of the difficulty of applying the pragmatic test to the statement affirming the existence of Julius Cæsar, it seems to us true that all historical facts, though susceptible of no direct empirical verification, derive their authentic truth from their coherence with the general system of man's historical knowledge. James really has given a more acceptable explanation of this pragmatic dilemma in the same book, on pp. 88, 215.

[2] *Pragmatism*, pp. 160-1.

[3] *Ibid.*, p. 157.

on that account, is not, and cannot be, such a whole.[1] Thus, in order to preclude the possibility of a unitary world, we must not only insist upon some factually unorganized diversities, but show that these diversities are, in the last analysis, recalcitrant to organization. It would be safe to assert, however, that, in the concrete world of experience, we never encounter a fact or event that is really and ultimately discontinuous—a fact, that is to say, possessing no intelligible meaning in terms of other facts or experience in general, and refractory to every effort of assimilation. For take any apparently disconnected experience-fragment and try to make sure that it has no relation with general experience. At once a host of relations would spring up—likeness, unlikeness, cause and effect, purpose, relevancy, etc.—so that the fragment, losing its primitive strangeness and unfamiliarity, directly brings itself into an intimate relationship with our experience-system. In this light, then, even the instances of reveries and day-dreams which James cites to support his thesis[2] are really not pluralistic experience-entities, as they are supposed to be, but, in so far as they possess some intelligible meaning, actually cohere with the world of concrete facts, upon which they are intimately dependent. For, in the first place, I can construct and enjoy my present delightful day-dream only because I have a whole system of actual experience at my disposal, from which my imaginary reconstruction is drawn. Indeed, the particular sort of dream I may have depends upon the particular sort of actual experience I

[1] James seems to recognize this distinction; *ibid.*, p. 16.
[2] *Pragmatism*, pp. 156-7.

already possess; and the imaginary, in this sense, is a reflection of the real. I may discover, in the second place, the reasons for the present appearance of such a day-dream, e.g. dissatisfaction with my modest means leads me into a dream of fabulous wealth. Or, thirdly, I may reprove myself for indulging in such idle fancies, knowing that they are practically useless and even dangerous.[1] In these and some other ways, therefore, our imaginary constructions not only fall short of the strictly pluralistic ideal of real incoherence, but, on the contrary, are thoroughly continuous with our matter-of-fact experience.

Furthermore, just for the sake of argument, we may even grant, with James, that day-dreams are really incoherent *inter se*, "wholly out of definite relation with the similar content of any one else's mind", and that, therefore, they represent some absolutely pluralistic entities. But if we apply the customary pragmatic test that things are true in so far as they are realized in subsequent events, it is evident that day-dreams, being actually unrealizable, possess neither truth nor reality, and that their existence does not make any pragmatic difference. Why should we, then, as pragmatists, take our clue to the nature of a real world from these entities or ideas which are themselves unreal? Why should we, in other words, imagine some pluralistic creations, lower grades of universe, to use James's own terminology,[2] in order to establish a pluralistic hypothesis, when we have at hand a living, actual, and, presumably, high-grade world "in which each event finds its date and place" to deal with?

[1] *Pragmatism*, p. 205. [2] *Pragmatism*, p. 156.

(3) To do justice to our philosopher, however, we must emphasize the fact that James does not deny the necessity of some unity in experience, but only of a single all-inclusive unity which he has stigmatized as a block universe. We can do no better than to quote his own words : " With her [pragmatism] criterion of the practical difference that theories make ", he says, " we see that she must equally abjure absolute monism and absolute pluralism. The world is one just so far as its parts hang together by any definite connexion. It is many just so far as any definite connexion fails to obtain ".[1] But since " there are innumerable kinds of connexion that special things have with other special things ",[2] no integration, no system in the world can ever absorb all individual beings—each of which, indeed, may figure in many different systems at the same time. This, then, is James's sketch of the pluralistic universe, the only world in which freedom can be found.

The real motive behind James's vehement protest against the " block universe ", we surmise, is not so much logical or metaphysical as ethical; for he seems to intimate elsewhere that so far as mere logical consistency is concerned, the absolutist *édition de luxe* of reality would be the most complete. To meet James on his own ground, then, we must not merely try to convince him that a pluralistic universe is logically bad, but ethically and practically no better than a monistic world. As pragmatists, we must ask, what practical difference does it make, from the standpoint of the individual, whether he lives in

[1] *Ibid.* [2] *Ibid.*, pp. 135-6.

a world in which there are many partial unities or in one which represents the complete unity of all ?

None, we should answer, in spite of James's insistence upon the fact that since there are more than one sort of relationships among individuals, they are saved from being merged into any one unity. For the real point at issue here is, from the viewpoint of the individual, not how *extensive* any given unity that actually envelops him is, but whether that unity represents a *necessary* relationship from which he cannot freely escape. To illustrate : if I am a slave to a master, it makes no practical difference whatever, so far as my relation to him is concerned, whether he be the master of all men on earth or enjoy lordship over only one person. Waiving the question of ethical rightness, therefore, and assuming that the master-slave relation is a necessary one (e.g. if we accept the position of Aristotle, which is by no means tenable), I must regard myself as in real bondage so long as I cannot escape that relation : to say that I am less of a slave because my master's power does not completely dominate the world would be practically meaningless. In this light, it is clear that, in order to destroy the hypothesis of a unitary world as one unfit for freedom, pluralistic pragmatism should deny not only a unity which is all-inclusive, but any sort of unity which suggests the least trace of necessary relation among the individuals whom it binds. It must prove, in other words, not merely that a variety of social relations exist, but that all relations being loose or " external ", individuals are perfectly free to choose to enter or withdraw from any of them.

This, however, cannot be done if we pay due respect to our concrete social experience, not to speak of the things that are under the iron laws of causality and physical sequences. For, are there not such relations as family obligations, religious affiliations, economic duties in the larger sense, and, above all, state-membership, which are inherently necessary and beyond the free choice of the individual? Can, in other words, a normal, responsible person definitely renounce his social and ethical relations without doing violence to his own nature and bringing serious harm to society at large? In fact, if we understand James correctly, he would be the last person to deny this; for he even goes so far as to assert that no individual part of the universe can finally escape the definite network of actual relations, each of which, though partial in its extent, is real in its force.[1] Wherever, therefore, we discover a "little hangings-together", wherever we encounter a little world of "conjunctive relations", there we face, from the standpoint of the individual contained in that world, a perfectly *stiff* block universe, which ruthlessly integrates all things within it to form a unity. Nor, indeed, can there be any happy-go-lucky sort of liberty for the individuals who happen not to belong to that particular universe.

[1] "Human efforts", James says, "are daily unifying the world more and more in definite systematic ways. We found colonial, postal, consular, commercial systems, all the parts of which obey definite influences that propagate themselves within the system, but not to facts outside of it . . . From this 'systematic' point of view, therefore, the pragmatic value of the world's unity is that all these definite networks actually and practically exist. Some are more enveloping and extensive, some less so; they are superposed upon each other; and between them all they let no individual elementary part of the universe escape." *Pragmatism*, p. 136; cf. *Essays in Radical Empiricism*, p. 43.

Because, as James shows, being inevitably and perhaps unfortunately caught *somewhere* in the vast network of multi-relations, they must be compelled patiently to suffer some stiff block universe of their own. And, finally, pity is due to the person who figures in many different systems, holds various offices, and belongs to several clubs :[1] for he is one who must bear the Atlantean burden of a plurality of block universes.

(4) A good deal of the attractiveness of pragmatism is undoubtedly due to the peculiarly liberal and progressive temper in which it is uttered, a temper which can be no better described than by the word "meliorism". Our world, so James more than once tells us, is unfinished, plastic, and hence responsive to the slightest touch of human hands at improvement. Reality is infinitely malleable ; it may be fashioned in whatever shape men happen to desire.[2] No sensible person, indeed, would deny that progress is not only itself desirable, but constitutes an essential aspect of reality. A legitimate question, however, may be raised : accepting the radical empiricist criterion of truth and value, can we finally come to any intelligible notion of progress at all ? Denying, in other words, the possibility of a definitely conceived world-ideal toward which we strive, a determinate idea, namely, of what a *better* world is or ought to be, and relying, as the pragmatist does, solely upon the guidance of circumstantial utility, can we actually effect any improvement in the world, since we have thus denied the existence of an objective standard by which all progress is to be measured ?

[1] *Pragmatism*, p. 136. [2] *Ibid.*, 256-7.

The metaphor of reality as a ship of adventure is a beautiful one and not without real significance.[1] But inasmuch as the real attractiveness of any adventure lies in its promise of a treasure island attainable through much hardship and danger, no person evidently would be willing to sacrifice his time and risk his life in some *aimless* drifting, in a ship full of holes and loose joints, with a pilot who neither knows its destination nor cares to know it. In the annals of adventure, perhaps there is none which surpasses the American voyage of Columbus in romance and historical consequence. But could Columbus have made the discovery had he not had some firm belief that the earth was round, and that by following a definite direction, a certain piece of land was to be reached (even though what he eventually discovered was not exactly what he had expected)? Suppose he had gone to Queen Isabella and said: I do not know anything about the shape of the earth, which may be round, flat, or indefinitely shaped; nor do I have any idea of where I intend to go; I shall not even bring with me a compass or a map of the seas, because my trip being an adventure, I shall leave everything unfixed; as to my competence as a sailor, well, that will be amply proved by my ability to keep the ship *always sailing*, by my ability to meet the practical situations of the winds and waters; and, finally, as to the soundness of my voyage-idea, let us defer its consideration and leave it to the test of subsequential event: that is, if I return with new land, my idea will have worked and hence will be true; but if I never return or fail to discover land, call it a lie, if you please, but

[1] *Pragmatism*, p. 257.

be prepared to send forth another adventure-ship—suppose, we say, Columbus had presented his case to the Queen in such a pragmatic fashion, would she have deemed it wise to grant him a command ? or ought she to have done it ?[1]

There is, however, a more serious difficulty which pragmatic meliorism must attempt to answer, a difficulty which it shares in common with all theories that deny the possibility of some objective, fixed criterion of value and insist upon the all-sufficiency of subjective purposes and opinions. For if, on the one hand, we can shape our world in whatever way we happen to like, and, on the other hand, there exists no universal standard to which our private judgments may be referred for correction,[2] the " better " world which we thus create would simply be a world shaped according to the preference of those who possess sufficient power or influence so to shape it ; and admitting that private ideals of progress widely diverge, the plasticity of the universe would simply increase the chance of majority-tyranny or

[1] It seems true that while probability is a safe guide of an ordinary person's life, firmness of conviction is a prerequisite to great deeds. Columbus was sure of the truth that the earth was round ; he overcame all difficulties and sailed with conviction. His crew sailed in doubt ; in fact they would not have sailed at all, had it not been for Columbus. In matters of momentous consequence the common-sense reliance upon probable success can give rise to no positive action. One must have faith in his principle, although he may not be sure of its eventual success. To hold no principle as valid until supported by subsequent events is, after all, a mark of timidity, of " soft-mindedness ". Pragmatic tychism, in this light, would lead to a " slave morality ".

[2] As Professor Royce says : Pragmatism is an " effort to state the theory of truth wholly in terms of an interpretation of our judgments as present acknowledgment, since it made these judgments the embodiments of conscious attitude that I then conceive to be essentially ethical and to be capable of no restatement in terms of an absolute warrent whatever ". *Phil. Rev.*, 13 : 117.

the domination of contingent force.[2] Pragmatism, therefore, appears to be a sort of cosmic republicanism, an effort to extend the libertarian idea of "self-government" from the realm of political organization into that of metaphysics; it is, so to speak, a declaration of independence of the pragmatic-humanist spirit against all reality, claiming for men the natural right to take the government of the universe into their own hands. The Absolute-Bastille shattered; the all-absorbing monarchical God dethroned; liberty for all; Year One of the Universe-Republic; inauguration of the cosmic Reign of Terror, with Professor James in the role of the prophetic Rousseau and Mr Laski as the irresistible Danton. . . . After all, a loosely connected, incomplete world may not be too uncongenial a place for most of us. But we should, indeed, wisely run for our lives if somebody too conscientiously tried to "improve" it for us.

Pragmatism, in this light, may be regarded as by far the most audacious piece of anthropomorphism ever attempted in modern philosophy. Anthropomorphism is perhaps harmless enough, if man is a little more responsible and a little less whimsical than the "happy-go-lucky sort of anarchistic creature" that the pragmatist would like to be. But such as man is, he could easily over-indulge in his "divinely creative functions" and play diabolical havoc with the none-too-rigid universe, or else set off a full charge of his radical empiricist dynamite and blow it to innumerable pieces, however good his intention may be. Fortunately, however, the world is not so fragile as the prag-

[2] See our previous discussion of the actual will, above, pp. 187-90.

matic-tychist sometimes thinks. In fact, James himself has more than once indicated the essentially *inflexible* character of the universe, so inflexible that even the happy anarchistic fellow must either obey its rules of the game or be vanquished.[1] The world, after all, is not infinitely malleable : man is not the measure of all things, nor can he make or unmake everything. We count the stars, we liken their general shape to an animal and name them the " Great Bear " ; we thus add truth to reality. But counting or no counting, the seven stars have always been seven, and " whether anyone had ever noted the fact or not, the dim resemblance to a long-tailed (or long-necked ?) animal was always truly there ".[2]

III

Pragmatism, as we have already stated, aims to strike a middle course between absolute monism and absolute pluralism ; for this reason, it recognizes not only the existence of some sort of unity in the universe but asserts certain propositions which, though significant in themselves, are out of harmony with its general empiricist position. These we shall examine one by one ; and in each case we shall try to ascertain whether this pragmatic effort at reconciliation does not inadvertently lead James to make some undue concessions to the idealists.

[1] " Woe to him whose beliefs play fast and loose with the order which realities follow in his experience ; they will lead him nowhere or else make false connexions." *Pragmatism*, p. 205.

[2] *Meaning of Truth*, p. 92.

(1) The first indication of the softening-down of the "tough-minded" pluralism of James comes to light when he admits, on pragmatic grounds, that the hypothesis of the absolute is "very precious" as a legitimate holiday-taking attitude in the individual's moral life.[1] For no matter how repugnant the absolute appears to James,[2] and no matter how dangerous a hypothesis it may really be, so far as it *works* with some individuals, whether they be idealists or ordinary "tender-minded" persons, it is not only to that extent pragmatically valid for them, but actually a pragmatic truth, which cannot be rejected without at the same time dishonouring the pragmatic test itself.

The important thing to note here, however, is that James's reason for rejecting the premise of the absolute is not that it does not represent a good enough pragmatic principle or truth, but that it "clashes" with his other truths which are dear to him. After all, being a philosopher as well as a pure pragmatist,[3] James cannot help professing a steady interest in theoretical consistency—"in feeling that what he now thinks goes with what he thinks on other occasions".[4] But if the criterion of consistency is more ultimate than that of "expediency" or "workability", as James's attitude toward the absolute shows, we may rightly doubt that our philosopher here remains com-

[1] *Pragmatism*, pp. 74 ff. Cf. this dictum: "This need of an eternal moral order is one of the deepest needs of our breast". *Ibid.*, p. 106.

[2] *Ibid.*, p. 76.

[3] This, of course, is not intended as sarcasm; see Signor Papini's definition of pragmatism, quoted above, p. 219.

[4] *Meaning of Truth*, p. 211.

pletely on pragmatic grounds, or, indeed, is at a safe distance from the much-abhorred rationalist with his logic of non-contradiction and "coherence theory" of truth. The pragmatic test of truth, in fact, seems often to have misconstrued both by its proponents and by its antagonists —even James himself is not always clear in his statement. "The true", he says, "is only the expedient in the way of thinking".[1] At first sight we may be tempted to think that this is James's complete definition of truth and that, accordingly, expediency itself constitutes the real criterion of verity. A closer inspection, however, reveals the fact that James has added a qualifying clause to this definition. "Expedient", he adds, "in almost any fashion; and expedient in the long run and on the whole of course". We may at once raise the question whether a criterion that may be interpretated "in almost any fashion" can afford a really effective criterion at all, especially when we admit that "what meets expediently all the experiences in sight won't necessarily meet all further experiences equally satisfactorily". James's meaning here seems to be: that *To be true* is not merely to be presently expedient, but to be compatible with the "collectivity of experience's demands, nothing being omitted". For,[2] as James indicates, nothing can be really expedient unless it hangs together with our organized experience, viewed as a "satisfactory" or harmonious system, from which all disturbing contradictions are removed. On the other hand, as our experience always boils over, as James says, "making us correct our present formulas" and beliefs so that what

[1] *Pragmatism*, p. 222. [2] *Pragmatism*, p. 80.

appears true to us now may later become untrue, "expediency" evidently cannot mean mere "relevancy to situation", but consistency with the entire experience-situation created and grasped through the progressive systematization of our ideas and principles.[1] The test of truth, in other words, is simply *more truth.*

(2) The frequent charge against the pragmatist that he fixes his eyes solely upon practical matters, thus leaving all theoretical interest out of account, is admittedly false and hence rightly resented by James. While James, however, has effectively answered his critics by recognizing the importance of theoretical truths in the pragmatic world, he has not proved to us in any clear way that this recognition will not seriously impair his *radical empiricist* position which, as he declares, never admits into its construction any element that is not *directly* experienced.[2] Evidently, the first difficulty which suggests itself here is how to justify the many "unverifiable hypotheses" in the physical sciences, which, though essentially useful, cannot, by the nature of the case, be directly experienced. To avoid this predicament, James urges that "a true idea now means not only one that prepares us for an actual perception. It means also one that might prepare us for a *merely possible* perception, or one that, if spoken, would suggest actual perception which the speaker cannot share".[3] All this is true enough. If, however, in the interest of theoretical truths we are willing to replace direct perception

[1] *Meaning of Truth*, p. 214; *Pragmatism*, p. 224.
[2] *Essays in Radical Empiricism*, p. 42.
[3] *Meaning of Truth*, pp. 86-7 (italics ours).

by merely possible perception, forego the demand for the "cash value" of ideas, and remain satisfied with a "credit system" of truth,[1] it is very hard to see how our radical empiricist is more empirical than the rationalist. Evidently, James seems to have again departed from his pragmatic position and fallen back upon the coherence theory of truth, admitting, as he does, that any perceptually unverifiable truth, e.g., the existence of Julius Cæsar, or of antediluvian monsters, is "guaranteed by its coherence with everything that is present",[2] which latter in turn is guaranteed by its coherence with our future experience.[3] In this way, then, our experience is "progressively organized to meet thought's ideal of a complete whole, with its members inter-connected according to a determinate principle".[4] If this is the logical outcome of radical empiricism, perhaps even the most rigorous rationalist would be willing to give it favourable consideration.

(3) That James tends to modify his radical empiricist position by indirectly and perhaps unconsciously admitting some of the most important rationalist principles is not only shown in his appeal to the coherence theory of truth, as we have above indicated; it is also apparent from the definite emphasis which he places upon the rigid and coercive character of reality: a fact which does not harmonize with his avowed tychism and meliorism. Rejecting (rightly, of course) the "copy" theory of truth, which he attributes to the rationalist without the latter's

[1] *Pragmatism*, p. 209; cf. p. 260. [2] *Ibid.*, pp. 214-5.
[3] *Ibid.*, p. 80. [4] Dewey, *Studies in Logical Theory*, p. 165.

consent, James proceeds to demonstrate that we are not at all free to " make " truth according to our whims or to play fast and loose with our ideas without due regard to their objective references. Indeed, if we wish to avoid endless contradictions and frustrations,[1] we must scrupulously keep our principles and experience-formulas in perfect agreement with realities, whether by realities we mean sensible facts, mental relations, or the whole system of truths which we already possess.[2] The test of truth, therefore, is not only coherence but objective necessity. The " divinely creative function " of men is reduced in this way to something like the discovery, the bringing into explicit articulation, of implicit but necessary and eternally existing truths, such as mathematical relations and certain basic laws in the physical realm. Even, indeed, the working hypotheses of the various sciences, acknowledged to be hypothetical as they are, can be regarded as man-made only in a secondary sense which the rationalist would be willing to grant. For surely the validity or truth of the ether or of the atomic hypothesis does not consist in the fact that man has the power freely to regard reality *as if* made of ether or atoms in consequence of some urgent scientific need,[3] but rather in the fact that these particular *as if* interpretations of reality cohere harmoniously with other interpretations and facts which have already been objecti-

[1] " Between the coercions of the sensible order and those of the ideal order, our mind is thus wedged tightly. Our ideas must agree with realities, be such realities concrete or abstract, be they facts or principles, under penalty of endless inconsistency and frustration." *Pragmatism*, p. 211.

[2] *Ibid.*, p. 212.

[3] *Pragmatism*, p. 216.

fied into a system. It is true that without the synthetic activity of the scientific mind, neither hypotheses nor laws will ever be *known as* truths; on the other hand, such truths can be made, precisely because we understand and obey the coercive decrees of the various reality-orders and carry these decrees out faithfully and in the most consistent fashion.[1] Verification, therefore, if we understand James's implied meaning correctly, merely convinces us that our truth-making is in the right direction; it does not create truths out of nothing, still less does it create the realities and relations upon which they are founded.

(4) His conversion to Fechnerian panpsychism caused James to make some important changes in his earlier views concerning the absolute[2]; not only does he finally admit the possibility of the hypothesis of an absolute but he recommends the confluence of finite selves in a vast conscious stream as a most acceptable metaphysical assumption.[3] He believes, of course, that his pluralistic position is by no means vitiated by this thought, especially when he emphasizes the fact that no matter how vast this psychic absolute may become, so long as it does not embrace *all* reality and has its own Other, so long as it retains the character of finiteness and limitation,[4] it leaves the universe sufficiently loose to allow plenty of room for individual freedom and independence. The pluralistic universe,

[1] *Ibid.*, p. 217. "Truth in science", James writes, "is what gives us the maximum possible sum of satisfaction, taste included, but consistence both with previous truths and with novel fact is always the most imperious claimant".

[2] Cf. *Pragmatism*, pp. 159-61.

[3] *Pluralistic Universe*, pp. 289, 292.

[4] *Ibid.*, pp. 310, 318.

therefore, finally appears in James's thought as a congregation of psychic macrocosms, among which is the God in whom all human souls merge.

Waiving many apparent objections which may be raised from some point of view different from that of James, we may here again suggest a legitimate pragmatic question: what difference does it make to individual selves whether the larger self enveloping them represents the complete totality of all reality or whether it is itself merely a finite individual among others? The real contradiction which James finds in the absolutistic hypothesis, as we have seen, is that by including everything in God we include in him also all evils, which are surely unworthy of his divine nature.[1] Let us grant that this is a real pragmatic consideration. Since, however, James insists with Fechner that "every bit of us at every moment is part or parcel of a wider self",[2] the God that does not include all reality must at least include all of man's spiritual life—excepting, presumably, its evil sides. From the standpoint of the finite individual, therefore, to be merged in God is as natural as it is inevitable; and, consequently, although God may be finite with respect to his own "environment", he is genuinely all-inclusive with respect to each and everyone of us. His relation to us, in short, being thus necessary and all-embracing, is precisely the block universe sort of relation which James so deeply resents. Moreover, the God-part of the universe being evidently the only part of reality which we human beings can know and get in touch with, we cannot hope to get outside of God (even if

[1] *Pluralistic Universe*, pp. 310-11. [2] *Ibid.*, p. 289.

we could) without banishing ourselves into a no man's land somewhere in the vast, unmapped jungle-universe, or perhaps falling into the grip of the devil, who, though a pluralistic entity and hence not included in God, is sufficiently conversant with human nature to bid us a grim welcome. Thus, without minimizing the moral value of individual choice and responsibility in the matter of salvation, it is difficult to see what pragmatic advantage is offered to *men* by James's pluralistic conception of God and the universe.[1]

This same pragmatic question may be urged in still another way. James maintains that "we are indeed *internal parts* of God and not external creations, on any possible reading of the panpsychic system. Yet because God is not the absolute, but is himself a part when the system is conceived pluralistically, his functions can be taken as not wholly dissimilar to those of the other smaller parts—as similar to our functions consequently".[2] Such a line of argument, to say the least, is pragmatically abstract and unmeaning. Without telling us definitely what God's functions are, James concludes that *because* God is limited like other finite beings, therefore his functions are similar to those of men; because, in other words, both God and men are parts of a wider reality, therefore they have the same sort of functions to perform. But how, we ask, can the mere fact of being partial and finite constitute a ground for similarity in functions, granting that the entities in question are on the same reality-level? Furthermore,

[1] Cf. Rogers, *English and American Philosophy*, p. 387.
[2] *Pluralistic Universe*, p. 318 (italics ours).

since God and men are finite in two entirely different senses—for God's finitude consists in a part-whole relation between him and the total universe, while men are " internal parts " of God and hence stand in a part-whole relation to him—how can God have the same kind of functions as we, unless, indeed, we abolish our first hypothesis that God includes human beings and offers them peace and consolation, whether in the form of " mind-cure "[1] or some other sort of spiritual communion, and assert that we can reciprocally include God in our being, thus becoming gods ourselves ?

The real difficulty with James, then, appears to be that he recognizes the value of some kind of an absolute, but declines to admit certain qualities which traditionally pertain to it, e.g. all-inclusiveness. Perhaps it is true that *mere* inclusiveness does not constitute the moral beauty of God ; for we can easily imagine an infinite devil with the overwhelming attributes of omnipotence, omniscience, and omnipresence. The question, however, still remains, whether in interpreting God's nature according to a concrete system of moral values, we can deny him an inclusiveness and spiritual power in terms of this very system. James himself probably would agree with us that we cannot deny him this ; in fact, if we recognize God as the prime source of all spiritual values and the final destination of all human souls, *we* must necessarily regard him as all-powerful and all-inclusive—that is, with respect to us human selves. If this is so, why should we, as pragmatists, worry over the question whether God includes also the non-human

[1] *Pluralistic Universe*, p. 305.

part of reality, granting that we can know such reality? What *difference* does it make, if God does not include it? And, finally, if the proposition that God does not include all reality makes no practical difference, does it not, according to the pragmatic test, lack the essential mark of a truth? In his attempt to establish a pluralistic universe, we fear, James has made the mistake of proving too much.

IV

From our discussions above, it must have become sufficiently clear that with its many theoretical difficulties, pragmatism or radical empiricism is ill-fitted to be the basis of a new social philosophy, particularly when we recall the dangers which inhere in the pragmatic insistence upon loose relations and tychistic meliorism. The spirit of freedom and initiative is admirable, but it should always be borne in mind that freedom as such affords no self-criticism, and, when misused, easily degenerates into anarchism and irresponsibility. Even the demand for self-government, a fetish of the democratic age, is not justified by James's vigorous pragmatic-humanistic philosophising; on the contrary, its extension into the metaphysical realm only helps us to see some of its serious perils the more clearly in their magnified form—the perils, namely, of the tyranny of contingent force.

To do justice to James, however, we must carefully distinguish James the philosopher from James the pragmatist, James the constructive thinker from James the

insurgent against philosophical tradition. For it is only in the latter capacity that James indulges in the abuse of monism, an act which he later at a calm moment seems to repent. The pluralistic universe, after all, is not so pluralistic as James or his followers at first may think ; in fact, in the eyes of an impartial bystander, it has many qualities of a monistic world so temperamentally disliked by James. Perhaps the situation is that James *loves* a pluralistic universe, but that his reason tells him to choose a monistic order, so that at times our philosopher is at odds with himself. Or perhaps he is conscious of this inner conflict and valiantly seeks to effect a reconciliation of " absolute monism " with " absolute pluralism ". In any case, it is obvious that the empiricist and rationalist elements do not harmonize well in his thought, which finally remains, as it were, a pluralistic universe by itself, full of loose joints and incompleteness.

In thus pointing out the inconsistencies in James's position, we do not in the least intend to deny that his vigorous protest against the stereotype sort of rationalism and the cut-and-dried kind of monism has been refreshing to modern thought and has called its attention to the need of a wholesome emphasis upon concreteness. But as a philosophy of reconciliation, it too obviously betrays its empiricist partisan spirit and too unconsciously borrows from its rationalist opponent without proper acknowledgment, thereby defeating its own very purpose. Perhaps such a reconciliation is ultimately possible ; perhaps there may result from it something like the concrete monism which James vaguely cherished and which certain idealists

have attempted to develop. If so, pragmatism will accomplish its noble purpose by surrendering the greater share of its original claim for philosophical independence.

It is probably not superfluous to add a few words to bring out more clearly the real relations between the pragmatic philosophy of James and the pluralistic theory of politics. *First*, it cannot be denied that although Mr Laski is the only writer who explicitly acknowledges indebtedness to James, there exists a genuine sympathy in spirit between James and the pluralists in general. The pluralistic emphasis upon the "actual will" reminds us of the pragmatic predilection for the immediate consciousness; the argument against the sovereign power of the state sounds peculiarly like the protest against the all-inclusiveness of the block universe, the absolute; and Mr Laski's "experimentalist" method of politics, indeed, reflects admirably the tychistic-empiricist attitude which is so characteristic of James. *Secondly*, it is interesting to note that our previous criticisms of political pluralism and our criticism of pragmatism yield almost the same results. The subjectivist position is untenable in either case, and the libertarian notion of freedom is equally inconsistent as a principle of political organization or as a conception of reality. In fact, even the arguments employed by the pluralists and by the pragmatists to prove that reality (political or metaphysical) is ultimately pluralistic seems to run in the same grooves and end in the same difficulties. For what these arguments show is merely that diversity exists; they do not prove to us that unity is finally impossible, or, if possible, it is ethically

undesirable. Furthermore, James resolves his theory of truth into the rationalist principle of coherence ; and his pluralistic universe itself suffers a transformation into a panpsychic system. The pluralists, similarly, conclude their political theory by re-establishing a comprehensive sovereignty which exceeds the power of any sovereignty conceived by the legal monists. *Thirdly*, we must not infer from the above that there is a logical or necessary connection between pragmatism and political pluralism. Mr Laski to be sure, has been inspired by the thought of James ; but to be inspired by a thought is not necessarily to follow that thought ; and, truly speaking, there are other pluralists who reveal no intellectual kinship with James. The views of certain pluralists like Mr Cole and especially Dr Krabbe, on the other hand, bear a striking resemblance to some phases of the political theory of Hegel. Indeed, their insistence upon the unity and sovereign character of the complete social order would naturally appear objectionable to James the pragmatist, the James, namely, who was opposed to rationalism, the James who fired the pluralistic imagination of Mr Laski in the earlier days of his political speculation.

Our interest here, however, is not the historical question of how closely is political pluralism connected with pragmatism, but the question whether the " radical empiricist " method is a safe method to adopt in metaphysical or political inquiry. Our criticisms in this chapter convince us that radical empiricism, in its pure form, tends to distort reality ; and since political reality is a part of general reality, empiricism would necessarily lead us to a false

theory of politics. Whatever purely pragmatic elements we may discover in political pluralism, therefore, must be carefully excluded, or at least modified, so that we may finally arrive at a true theory—a concrete monism, of which James the philosopher himself sometimes had a vague vision.

CHAPTER IX

POLITICAL PLURALISM AND THE STATE AS AN ETHICAL IDEAL

THE history of Western political thought may be viewed, in a general way, as a continuous reaction between two opposite conceptions of the state, that is, between the state as supreme ethical ideal, absolute and all-embracing in its complete meaning, and the state as a mere social instrument designed for a limited purpose. This latter tendency has often been characterized as " the separation of politics from ethics ", which, in the hands of different writers, assumes either the form of an *immoralism* popularly identified with the doctrine of Machiavelli, or of a narrowly " scientific " treatment of the political process particularly as represented by the English analytical school of jurisprudence. It is the aim of this chapter to discuss briefly the most typical views based upon each of these tendencies, to bring out their ethical implications, and to ascertain their exact relations with the various exponents of the pluralistic theory.

" Every state ", Aristotle says, " is a community of some kind, and every community is established with a view to some good . . . but if all communities aim at some good, the state, or political community, which is the highest of all, and which embraces all the rest, aims, and in a greater

degree than any other, at the highest good ".[1] We have here the first definite formulation of the ethical conception of the state, namely, the political community as not only the highest but the most inclusive of all social institutions. Aristotle's definition, however, though sufficiently clear in its essential meaning, is still inarticulate in content; it vaguely hints at the existence of partial communities within the social system, e.g. families, villages, and the economic groups as embodied in the artisan-trader class, without determining the precise relationship which exists among themselves and the relationship between them and the enclosing political community.[2] It recognizes, in a general way, the ethical ultimacy of the state, yet it fails explicitly to reconcile the discrepancy between the state as a political means (the practically best state) and the state as the end in itself (the ideally best state).

It is Hegel, we think, who gives the ethical conception its fullest development, precisely by making the essential elements in the state more distinct and articulate, guided, without doubt, partly by his own metaphysical standpoint, and partly by the concrete facts which he observed in the modern political community. " The state ", he says, " is the ethical whole and the realization of freedom. It is the objective spirit, and he [the individual] has his truth [i.e. the complete realization of his potential nature], real existence, and ethical status only in being a member of

[1] *Politics* (Jowett), 1, ch. 1, § 1.

[2] This is evident from the fact that Aristotle has a difficulty in assigning a satisfactory position to the artisans in the state. The artisans, he holds, are necessary to the state, but are not parts of it.

it ".[1] The Hegelian state, however, attains its totality not by annihilating all partial purposes in the supreme ethical ideal but by developing this ideal in and through the spontaneous realization of the partial purposes obtaining in the general community. It is, in other words, no longer an implicit unity, as the Greek city evidently was, but a " concrete universal ", a living unity in which every constituent part possesses its own distinct meaning. The common supposition that the Hegelian state is identical with the community, that all social activities are merged into the sphere of governmental activity, is indeed misleading. For the state, being the essential embodiment of the ethical ideal, contains much more than the governmental system ; it manifests its function in a variety of ways, through every aspect of social life, politically as well as non-politically, unofficially no less than in its formal modes of procedure. State-action, in this way, means more than governmental action ; it does not necessarily imply the direct control of all social life by the rules of the political system, because this system itself is merely a part of the ethical state. The family and the economic order are as much parts of the state as the political fabric itself, and even the church, as the tangible expression of religious life, contributes an integral element of the state. Actions in these different spheres, therefore, in so far as they are compatible with the general social good, are state-actions. The ethical state, indeed, would be a very feeble and barren ideal if it had to confine all its purpose and activity within the limited sphere of the government, or to suppress the

[1] *Philosophy of Right* (Dyde), § 258.

claims and rights of the corporations existing in the general community in order to preserve its unity.[1]

This is different from saying, however, that the political state, as the formal instrument of regulation, as the " co-operative criticism of institutions ", does not occupy a peculiarly important position in the ethical state. The civic community in itself is devoid of a universal principle, and hence subject to internal strifes and conflict.[2] The church may sometimes go contrary to the progress of the ethical purpose and create unfreedom by its arbitrary will. It is the duty, then, of the " universal class ", the political state as embodied in the governmental system and law, to infuse into them a principle of unity and harmony, to

[1] *Op. cit.*, § 290, " addition " ; § 311.

Evidently, the usual pluralistic argument of " divided allegiance " does not apply to the Hegelian conception of the state. (See Figgis, *Churches in the Modern State*, p. 88 ; Laski, *Grammar of Politics*, p. 251). For, granting that a man is at once member of church, trade-union, golf-club, etc., besides being a citizen of the " state ", and that it is possible for him to set the claim of any one of the non-political groups against the political association, it does not follow that these groups possess some inherent right which is self-maintaining and which is not amenable to the judgment of an absolute social standard. The individual, in the first place, cannot decide the relative amount of allegiance he wishes to pledge to the different groups unless he consciously possesses a general scheme of social value which appears to him to be the most desirable. On the other hand, when an individual sets up one group against another, the question whether the scheme of social value involved in his protest is fundamentally correct is an important question to raise. A coal-mine striker may wish to annihilate all the claims of the operators, a mediæval church-supporter might think it right to submerge the authority of the state under papal authority ; yet it is doubtful that these attitudes are, from the standpoint of the general community, altogether correct. Conflicts of social allegiances, therefore, may often effectively limit the scope of governmental action, but in so doing, it indisputably proves the absolute power and existence of the state as a comprehensive ideal system.

[2] *Op. cit.*, § 289.

co-ordinate them, to control and regulate them, so that their private ends may be brought to bear upon the general good. The state, it is sure, in thus exercising its regulative function through the government, may become coercive; it may often resort to physical force and thereby obscure its essentially ethical meaning. But the state, as coercion, being merely the tangible instrument of the state as ideal, is not violated or perverted even when contingent unwisdom and ill-intention may misuse the powers of the government, law, or the entire constitutional system. An individual, who disapproves of some particular action of the political state, may, consequently, question its rightness, attempt legally to annul its effect, or, indeed, even endeavour to change the constitution itself should circumstances demand. In criticizing the instrument-state, however, the individual really asserts the ultimacy and inviolability of the ethical state; and here we discover the true justification of the principle of governmental limitation: the authority of the political state stands and falls not with its ability or inability to promote the particular ends as embodied in the non-political groups, but with its capacity and incapacity to carry out the decrees of the ethical state itself. Indeed, whatever be our judgment of the Hegelian state-conception, it is important that we clearly distinguish its three necessary elements, namely (1) the state in its natural-material aspect, as represented by the family and social-economic groups; (2) the state in its legal-political aspect, as embodied in the entire governmental system; and (3) the ethical state itself, which transcends and includes both. This point is worth stressing, especially if we are inclined

to criticize Hegel adversely. For it is evident that in order to meet the Hegelian position cogently we must not merely declare, as many do, that the state, *as political organization*, is not and should not be supreme ; or that, as the instrument of coercion, it cannot properly be regarded as an ethical ideal—since either of these assertions Hegel himself would be willing to admit. We must, in fact, go to the fundamental Hegelian theory itself and try to show either that an ethical community, greater and more absolute than the instrumental state, does not or cannot exist, or that a tenable theory of politics can be worked out by confining our attention to a mere theory of the government.

With the ethical standpoint thus understood, let us now pass to the opposite tendency in political theory, which has been designated as " the tendency to separate politics from ethics ".[1] This, of course, is an ambiguous phrase.

[1] The usual view which attributes a separation of politics from ethics to Aristotle is obviously misleading. (For example, Pollock, *History of Politics*, p. 14 *et passim*). Apart from a methodological division of these sciences, Aristotle has nowhere indicated that such a separation is to be made. On the contrary, so far as the subject-matter of ethics and politics is identical (*Nic. Ethics*, i., ch. 1, §§ 7-8 ; x, ch. 9, § 22), it is neither desirable nor possible to isolate them. Ethics, as the inquiry into the ultimate good, is a sort of propædeutic to politics ; the latter completes the former by ascertaining the laws and conditions under which this good is to be realized. Politics, therefore, includes ethics ; it is, as Aristotle says, " the supreme science ". (*Ibid.*, i, ch. 2, §§ 4-9 ; x, ch. 9, § 22).

It may be urged, however, that although Aristotle recognizes the good life as the general aim of the state, he explicitly distinguishes the virtue of the good citizen from that of the good man (*Ibid.*, v, ch. 2, § 11 ; *Politics*, iii, ch. 4, §§ 1, 9), thus indicating a real separation of politics from ethics. The answer to this objection, we think, is to be found in the peculiar connotation of the word " virtue " in Greek thought. The Greeks frequently employ the word virtue not merely to indicate moral excellence, but virtuosity or efficiency in conducting one's life toward the attainment of the good. Thus, while the Virtue of man as man is always the same, the

In some cases it has been undeservedly applied to writers who have no real intention of making such a separation; while in other cases it has been employed to describe a variety of methods which are too divergent to be accurately characterized by it. The examination of the views of a few outstanding writers will suffice to make our point clear.

Machiavelli is often ranked among the most extreme and the most realistic of *immoralists*. A careful reading of *The Prince* (the book which is largely responsible for his reputation as an immoralist), however, will show that it is debatable whether we can justly attribute to him a thorough-going un-ethical view of the political process. For it is easily seen that his moral apathy, notorious as it is, cannot be taken as a conclusive proof of that fundamental immoralism which he has been alleged to hold. His realistic recognition of the efficacy of hypocrisy as a means to secure political power, on the other hand, would tend to show that ethical categories are, for him, the most essential categories of man's political thinking, the force of which cannot be completely destroyed even under the most perverted conditions. For as the efficacy of falsehood depends upon the effective and general operation of truthfulness, hypocrisy would be useless if men, as political beings, are beyond good and evil. Furthermore, we should also remember that, being an ardent patriot as well as a

" virtue " of man as a citizen of some particular state varies according to the laws and conditions of that state as well as according to the peculiar station of life in which he finds himself. This distinction, however, is valid only when Aristotle speaks of the *practically* best state, which is really a partial state; in the *ideally* perfect state, good man and good citizen are completely identical; ethics and politics thus finally become one great science.

man of high intellectual culture, Machiavelli did not advocate intrigue for its own sake,[1] or even merely for the sake of the political ascendance of the prince; intrigue was justifiable only in so far as it was a necessary and effective means to attain some political end, the end, namely, of unity and peace in Italy.[2] Perhaps the utter corruption of political life in Florence and in Italy at large—partly the unhappy result of the bloody strife of contending factions within and partly of foreign aggression from without—may have led Machiavelli to agree with Dante that peace is the supreme political good upon which all possibility of human well-being depends. It may have caused him to draw the bold (but erroneous) conclusion that a good end would justify evil means, and that the best weapon to overcome evil is evil itself.[3] If this is so, we cannot really call his political theory immoralistic; indeed, Machiavellianism seems to be an eloquent protest against political corruption, a general affirmation of the ultimacy of ethical values in the political relation, and, above all, a genuine patriotic plea for order and peace, the moral colour

[1] He says of Agathocles, King of Syracuse: "Yet it cannot be called talent to slay fellow-citizens, to deceive friends, to be without faith, without mercy, without religion; such methods may gain empire, but not glory". *The Prince* (Marriott), ch. 8.

[2] The underlying motive of the *Prince* is passionately set forth in the concluding sentences of the final chapter. Cf. Spinoza, *Political Treatise* (Elwes), ch. 5, § 7, for a discussion of the motives of Machiavelli. Professor R. Falckenberg says of Machiavelli: "Patriotism was the soul of his thinking, questions of practical politics its subject, and historical facts its basis." *History of Modern Philosophy* (Armstrong), p. 30.

[3] "For a man who wishes to act entirely up to his profession of virtue soon meets with what destroys him among so much that is evil." *The Prince*, ch. 15.

of which is not even disguised by his thin veneer of cynicism.

If we cannot rightly attribute an immoralism to Machiavelli, still less can we say that Bodin's theory of sovereignty has effected a separation of politics from ethics, since his natural-law background directly connects him with the ethical school of political thought. It seems clear, indeed, that from Bodin's point of view, the definition of sovereignty as supreme legal power is merely a convenient way of conceiving state-authority ; this conception cannot, therefore, represent more than a subordinate principle in his political system—a principle not to be confused with or placed upon the same level with his fundamental conception of the state.[1] For the state, he tells us, is not simply governed by sovereign power, but by reason, the latter being the more ultimate of the two. Thus, according to Bodin, although sovereignty is, from the legal point of view, unlimited, this legality would lose its substantial meaning, if state-authority flatly contradicted the ordinances of reason, which are manifested through laws natural, moral, and divine. Ethico-religious considerations, therefore, belong to the proper sphere of political theory ; they should, in fact, engage the constant attention of every statesman and legislator, in order that the theoretical supremacy of law may be actually sustained by the moral forces of the community, and in order that sovereignty may not exist in vain.

[1] Bodin's definition of the state is : " Respublica est familiarum rerumque inter ipsas communium, summa potestate ac ratione moderata multitudino." *De republica*, i, ch. 1.

Coming now to Hobbes, it must be admitted that he succeeds in constructing a mechanistic theory of politics upon his materialistic metaphysical presuppositions. Yet we should also remember that while the Hobbesian system represents a complete departure from the ethical school, it falls short of the thorough-going " scientific " treatment of politics, which is so characteristic of the " analytical school ". Hobbes's " separation " of politics from ethics, therefore, amounts merely to the substitution of a mechanistic conception of the state for the ethical conception, and the sovereign power of the state, as he defines it, is really no more self-sufficient than the sovereignty in Bodin's system. For in spite of Hobbes's absolutist intention, his " natural-law " presuppositions compel him to admit that the commands of the leviathan are, after all, not supreme in their own right, but must be finally subject to the test of nature—just as Bodin subjects his theory of sovereignty to the test of morality and religion. Hobbes, therefore, not only recognizes the right of the subject to refuse, even in defiance of sovereign commands, to kill himself or his fellows but declares that when a large number of desperate persons deem it to be to their own advantage, they are justified to rise in open rebellion against the state.[1] In fact he even goes so far as to make the general assertion that the fundamental law of self-preservation being eternally immutable and always operative, " a covenant not to defend myself from force, by force, is always void ".[1] The state, to be sure, as " the terror of some power ", is itself force; that force, however, must always suffer

[1] *Leviathan*, ii, ch. 21. [2] *Ibid.*, ii, ch. 14.

resistance or overthrow, if it came into conflict with a more ultimate force, the force, namely, of the law of individual self-preservation. Evidently then, the theory of sovereignty, as Hobbes states it, fails to establish political absolutism, which, in truth, can never be consistently established on Hobbes's deterministic premises. That the leviathan possesses a legal supremacy is, of course, not to be denied. Legal supremacy, however, tells only one phase of the leviathan story. For the sovereign, in order to maintain itself, must be concerned not only with giving commands, but in so giving them that they will be actually obeyed; it must not only know that it possesses legal power, but constitute this power in such a way that it may be exercised in the most competent fashion. Sovereignty, in short, is subordinate to the principle of natural law; all legal rights flow from sovereignty, but sovereignty itself is derived from the power of nature, as manifested in the social order.[1]

[1] Spinoza's criticism of Hobbes's theory of sovereignty seems to us to be not altogether cogent. "The sovereign magistrate in any state", Spinoza writes, "hath no more right over his subjects than is measured by the excess of his power over the subject." (Letter to Jarig Jelles, quoted by Pollock, *Spinoza*, ed. 2, p. 296; cf. Spinoza, *Political Treatise*, ch. 2, § 4; *Theological-Political Treatise*, ch. 16.) As our discussion above shows, Hobbes himself would be willing to admit the truth of this assertion. On the other hand, Hobbes would point out that admitting the *de facto* limitation of legal sovereignty, the conception of sovereign power remains always a useful and indispensable principle in the sphere of law. For no positive law can be made unless we first establish a legal right of law-making and give this right to a determinate sovereign. (Cf. our discussions above, pp. 18 ff., 162 ff.) The real difference between Hobbes's and Spinoza's system lies rather in their different metaphysical backgrounds. For Spinoza, moral right makes political might; for Hobbes, natural might makes political right. See Spinoza, *Political Treatise*, ch. 5, § 1; cf. also Thilly, "Spinoza's Doctrine of the Freedom of Speech", *Chronici Spinozani*, 1923, pp. 96 ff.

The theory of Locke brings us back to the ethical school. Locke conceives the state in narrow political terms (i.e. by identifying the state-purpose with the protection of property) without at the same time denying its possible connection with some ultimate ethical good. Indeed, his conception of the state as a means implies the conception of some general community as the end—namely, the conception of a general system of social relations, which underlies and ultimately restricts the function of the instrumental state. The traditional interpretation of Locke, therefore, according to which the creation of the political state by the social compact completely terminates the state of nature (as Locke himself indicates in certain places) is somewhat misleading. For it is evident that the Lockean social compact does not create a community, but merely brings a *political* community into existence; the general community is not only temporally prior to the political state, but possesses a purpose far wider than that of the latter. The state, therefore, being specifically designed for the protection of "life, liberty and estate", cannot touch upon any other relation—spiritual or moral—which does not properly come under the sphere of "property". The laws which it makes, consequently, supplant merely the natural justice of the pre-political society; they cannot, as Locke indicates, supersede the entire system of natural relations without making the state all-pervading and absolute. And this, we think, is the re l meaning of Locke's famous doctrine of governmental limitation.[1] In fact, there is a very striking

[1] *Treatise*, ii, ch. 9, § 129.

similarity between Locke and Bodin, which has not usually been emphasized. The state of nature, which Locke defines as "men living together according to reason, without a common superior on earth with authority to judge between them", appears to be simply Bodin's political community, ruled by reason, but not as yet by a supreme power. The Lockean political community, on the other hand, may be defined as "men living together according to reason, *with* a common superior on earth with authority to judge between them"; it would then be in perfect accord with Bodin's definition of it as "an association of families and their common possessions, governed by a supreme power and by reason". In either case, political community is constituted by the addition (artificially, as though an express covenant, or naturally, i.e. through historical evolution) of a political system, with its proper powers, to the general community, which latter exists prior to and contemporaneous with the former and is based upon certain definable natural laws. The important difference between Locke and Hegel, on the other hand, does not lie in the fact that Locke denies the possibility of a community as ethical end,[1], but rather that he explicitly restricts the powers and purpose of the political state to one aspect of the community—i.e. to what Hegel would call the "civic community"—whereas Hegel tends

[1] For it is evident that a theory of governmental limitation can be effectively constructed by distinguishing the political state as means from the ethical community as the end, and that there is no place in Locke's system which logically precludes such a distinction. In fact, as we have just seen, Locke insists upon this distinction.

to attach a much more general meaning to the governmental class.[1]

In our brief review of outstanding writers so far, we notice that not one of them, to whatever school he may belong, attempts to confine the scope of political theory to a mere theory of the political state, thus freeing politics from all extra-legal considerations. This fascinating (though necessarily unfruitful) task has been admirably performed by the British jurist, Austin, who is often regarded as a brilliant disciple of Hobbes. It is true, of course, that Austin makes the Hobbesian theory of sovereignty more consistent by putting it on a purely legal basis. In isolating legality from the ultimate force which underlies the political system, however, Austin radically changes the Hobbesian theory; he tells us what sovereignty is but refuses to explain where it comes from, or what end it intends to serve. A purely analytical method of politics can lead us only into sheer abstraction. The Austinian jurisprudence, therefore, in so far as it is analytical, cannot be regarded as a real improvement upon Hobbes's more concrete (though metaphysically

[1] It must not be thought that our conclusions here contradict our previous discussion of the anti-monistic tendency in Locke. (Above, pp. 127-31.) We considered there only his conception of the political community, which is only a part o his conception of the entire social system. The oligarchic tendency which we noted in his theory, however, is a real difficulty. For while neither Locke's distinction between the state and general community nor his doctrine of governmental limitation as such implies an anti-ethical theory, his attempt to limit the power of the state in terms of "property" renders the state a servant of partial interests, and only *indirectly* an ethical instrument. In Hegel's system, the government is regarded as more directly connected with the ethical end than the "civic community"; the ideal character of the general community is also more clearly emphasized than in the case of Locke.

unsound) position; indeed, it has demonstrated more conclusively than any other tendency the fact that no workable theory of politics is forth-coming from a mere anatomy of the state-process, and that the theory of sovereignty, valuable as it is, possesses no substantial meaning if it is completely isolated from the principles which underlie the social process in general.[1] Naturally, therefore, the pluralistic criticism of the theory of sovereignty reveals itself as a protest against analysis and points to a revival of the broad teleological approach to politics. It is our intention presently to show how the many pluralists (with the single exception of M. Duguit, who subscribes to a sort of social determinism) conceive, in one way or another, of a general ethical community which is to be both the ultimate basis of a comprehensive force and the limitation of the powers of the instrumental political state.

It may appear somewhat strange to assert that M. Duguit's "objective" jurisprudence represents a recent revival of the deterministic system of Hobbes. A review of the former's theory, however, will certainly assure us that this is true. We must remember that for M. Duguit the entire system of political relations is not an ideal construction, nor a system of rights, as some ethical writers may say, but "the product of social evolution",[2]

[1] To do justice to Austin, however, we must point out that certain teleological considerations come into his system. We accept here the usual interpretation of Austinian jurisprudence merely for the sake of convenience in discussing the analytical method as a distinct approach to politics. Cf. Brown, *The Austinian Theory of Law*.

[2] *Manuel de droit constitutionel*, p. 23.

which is as objective and inevitable as the system of biological evolution. Law and government, then, is a "fact" based upon the laws of solidarity; these laws, being the supreme rule of all social phenomena, demand unconditional obedience not only from the individual, but from the state. Whether these laws *ought* to be supreme is, of course, an irrelevant question; since, according to M. Duguit, they actually and necessarily exist, their commands must be obeyed. Now waiving the differences between the metaphysical positions of Hobbes and M. Duguit (if he has any), we may easily discover several essential similarities between their theories, similarities which are quite striking. In the first place, both M. Duguit and Hobbes deny the operation of ethical categories in political thinking; their real problem is the discovery of the necessary connections and sequences within the social phenomenon, and ethical rights or values are shunned by M. Duguit as subjective or "metaphysical". He is, therefore, as much a social determinist as Hobbes aims to be. It is to be recognized, of course, that M. Duguit holds a conception of human nature diametrically opposed to that of Hobbes: the former regards the individual as inherently social while the latter pictures him as a wolf among wolves. But whether he be social or egoistic, man is, in either case, compelled by the laws of nature to seek society; and it makes no difference whether society be conceived as a vast scheme of interdependence or as an inevitable covenant to enforce peace by means of power, since social organization, by reason of its necessity, possesses an absolute power

over the individual.[1] Furthermore, allowing for whatever differences the distinction between state and society may make—a distinction which has escaped the notice of Hobbes and which M. Duguit takes great pains to elaborate —we cannot deny that the latter's argument against state-sovereignty is based precisely upon the same ground on which the former defends it. For, just as Hobbes ultimately subordinates sovereignty to the immutable laws of nature, M. Duguit points out that the state, as the creature and instrument of the laws of solidarity, is not and cannot be in any sense sovereign.

Our criticism of M. Duguit's social determinism may be summarized in a few words. Let us grant, in the first place, that solidarity is a universal fact, as M. Duguit declares. Now solidarity, as a fact, must either manifest itself through the willingness of the individual to co-operate in the social system, or as the necessity for him to co-operate, even though he may not, at a given moment, be conscious of the fundamental principle of interdependence. In the first instance, solidarity is evidently an unwarranted assumption of the unanimity of individual wills, or opinions, as the effective ground of social organization ; and, in the second, an eloquent argument for the absolutism of existing social power. On the other hand, we may admit that the fact of co-operation, under certain circumstances, may exist

[1] Although Aristotle asserts that man is a political being, his theory is not a determinism, in the sense in which M. Duguit's theory is. For while Aristotle admits that man cannot live without joining himself to society, he may live in society without living *well*. The ethical state, in other words, is continuous with man's rational nature, but it is not a *factual* necessity like the family system, the economic order, or society as M. Duguit conceives it.

in a particular community or group, unanimously and without coercion. Since, however, solidarity itself is without any character of goodness or badness, as M. Duguit insists, it is perfectly conceivable that a multitude of individuals may co-operate in a community of evil, for example, a community of criminals, which, owing to its peculiar nature, is usually more efficiently co-ordinated and "solidarized" than any normal community. M. Duguit, of course, may make reply that since a community of criminals ultimately brings conflict into the community at large, it conflicts with solidarity and, presumably, should be suppressed. Granting, however, the cogency of this answer, we wish still to ask M. Duguit how is the *fact* of solidarity proved by an admission of the existence of conflict. And if we regard solidarity as a *principle*, which is to be discovered, interpreted, and realized from time to time, the "rule of law" which flows from this principle would possess no authority over the individuals who fail to discover solidarity or to perceive the reasonableness in the interpretation of it by other individuals. M. Duguit's "objective" jurisprudence would be no more objective than any respectable teleological jurisprudence; and, in so far as the principle of solidarity excludes normative considerations in the matter of positive law-making, the ground of obedience can be no other than the sheer dominance of numerical force.

The real difficulty in M. Duguit's deterministic theory, we think, lies in its simplicity and barrenness. He fails to see that although solidarity is an essential requisite in social organization, it does not exhaust the entire meaning

of social organization which, on account of its variable content, cannot be placed upon the same level with the symbiotical phenomena of certain plant organisms. Human society is a far more complex matter than these. At certain stages of men's social life, it is true, solidarity seems to be the sole consideration : the beginning of any community, as Aristotle long ago said, is marked by the need for mutual help and assistance, without which men would perish in a struggle with the unfriendly forces of nature. This fact of solidarity, indeed, is observable even in societies of quite advanced character when they are confronted with imminent crises or external dangers. At other times, however, solidarity seems to be of comparatively less importance. For as men are endowed with the " sense of good and evil ", the ethical and ideal elements in their thinking constantly tend to free them from the seemingly unalterable determinism of social laws. History affords a wealth of instances of men who, influenced by abstract ethical principles, have been willing to sacrifice life, comfort, and even the existing social peace itself in order to attain something which they regarded more desirable than a mere system of perfectly adjusted co-operative living. The principle of solidarity, therefore, seems to be a wholly inadequate principle of social organization : if it simply asserts the elementary interdependence of men in their basic needs, it is almost a truism, which writers from Aristotle down unanimously admit ; if it is intended to serve as an ultimate criterion of all social life, it leaves our higher and more important social experiences out of account.

The general trend of pluralistic thought, however, does not follow M. Duguit. Writers such as Professor Laski, Mr Cole, and especially Dr Krabbe, not only insist upon a broad conception of the political process—politics is, for them, more than a theory of the legal aspect of the state—but demand a return to the ethical-teleological position, regarding the general political community as a comprehensive organization of human freedom. Our immediate purpose is, then, to see how closely these writers have come to the traditional ethical standpoint in general and to answer certain specific objections which they have raised against it.

The general drift of the pluralistic argument, as we may naturally expect, rests upon a distinction between the state as a political instrument and a general community as the total expression of social ideals and relations, organized or unorganized. The state, according to Mr Laski, is simply "a body of men and women in possession of actual power"; it is, on that account, wholly inadequate to give expression to the complete individuality of all men in the community. The general community, on the other hand, being general, is much more fitted for the realization of the many aspects of individual freedom. Evidently, then, in order to protect the freedom of the individual we must establish a definite system of individual rights which he possesses against the state. Mr Laski warns us, however, not to understand these rights in the traditional individualistic sense. For the individual, as individual, possesses no rights, and it is only in his capacity as a member of a general social order that he is entitled to set his claims against the state, or against any other partial social institution. Furthermore,

the welfare of the entire community being continuous and identical with that of the individual, the individual can have no rights against the general community ; to set one's claims against the general community is to bring oneself into conflict with himself.[1] Mr Cole takes his point of departure from this same distinction. The political state is for him no more than the function of government, which is not to be confused with the system of general social relations. It possesses, therefore, neither sovereignty nor moral absoluteness, but must be subordinated to a general community which manifests itself either in the " functional system " of organized social purposes, or in the unorganized spheres of action in which individuals directly and intimately express themselves.[2] In each case, it is the will of the individual as conscious of a social ideal, which imposes a limitation upon the powers of the political state.

It must not be inferred, however, that either Mr Laski or Mr Cole denies the necessity or possibility of a unitary organ of social control, or that the political state (or its equivalent) is the instrument best fitted for this task. Both, indeed, agree that the power which flows from the common purpose of the community must be the supreme authority of the land, in whatever way they may be organized. We may entrust this power to the existing governmental system, as Mr Laski prefers ; we may make

[1] *Grammar of Politics*, pp. 24, 95.

[2] *Social Theory*, p. 185. It may be noted that in his earlier writings Mr Cole identifies the state-purpose with the interest of the consumers. He seems to come quite close to the position of Locke. In his later writings, however, he tends more and more toward the Aristotelian view by regarding the political state as the supreme instrument of social control—namely in the form of a supreme court of functional equity.

the state, in its capacity as the representative of the co-operative force of the community, the pre-eminent institution which " controls the level at which men are to live as men ", which sets the keynote of the whole social order, and which authoritatively rules over all partial associations, including the economic groups, to the degree that their service to the common good is secured.[1] Or we may construct a special organ for the expression of this community-force—an organ which Mr Cole tries to realize in his Supreme Court of Functional Equity and which possesses all the essential powers of the state except its name. The basis of this supreme legal authority, we are told, lies precisely in the existence of a community as a system of functional values, a system which flows from the individual's standard of social ideals, manifested through his choice of the kind of social life which appears to him to be the most desirable. Or, lastly, the unified regulation of the community may take the form of a " legal community ", which evaluates all interests in terms of the universally existent individual sense of right, whereby Dr Krabbe seeks to give the " community of interests " a full measure of internal autonomy without sacrificing the principle of an ethical unity in social organization. In short, whatever detailed scheme these pluralists may prefer, and whatever different ethical background they may possess, they all seem to agree that a community is unintelligible unless a community of good is assumed, and, consequently, that while this good demands a definite restriction of governmental action to a specific sphere

[1] *Grammar of Politics*, pp. 26, 58, 70.

consistent with the nature of its function, it nevertheless justifies a supreme social power which is substantially all-pervading and unitary in its exercise.

The pluralistic state thus understood bears a true resemblance to the monistic state as defined by the ethical philosophers, particularly by Hegel. It is probably not too far wrong to conjecture that Hegel himself would be willing to approve of the pluralistic theory in general. For, in the first place, Hegel, like the pluralists, conceives of a general community which is greater and more inclusive than the political state, which embodies the complete freedom of the individual, and which affords an absolute criterion of right to which all social institutions, including the political system, must be referred. Secondly, Hegel, like the pluralists, regards the political state merely as a part of the community ; although, as the highest instrument for the expression of the universal good, it is given the right to control all associations within the community. We may, of course, segregate the association-regulative function of the state from its political-administrative function and entrust the former to a new political organ ; but whatever changes in detail may be advocated with advantage, the fundamental structure of our political organization remains unaltered. Thirdly, Hegel would heartily agree with the pluralists that men are by nature social, and that there is no real line of demarcation between individual and social good, re-affirming, consequently, the Aristotelian truth that man is a social-political being. There are, to be sure, many important differences of ethical outlook and of temperament which we must not ignore :

the difference, for example, between Mr Laski's individualistic inclinations and Hegel's ethical monism, or between the former's utilitarian conception of the good and the idealism of the latter. But, after all, these differences in fundamentals serve only to make the similarities in their political theory the more striking, since what they hold in common politically does not spring from any biased agreement, but points, in all probability, to some universal political truths which are acceptable to all in spite of serious political or ethical differences.

It must not be supposed, however, that the pluralists are aware of such a substantial *rapprochement* of their theory to ethical monism. On the contrary, they denounce it harshly and uncompromisingly, and condemn it as the greatest enemy of democracy and of their own theory. By some unfortunate misunderstanding the ethical theory has come to be regarded as an argument for political absolutism, and the state as the end appears to the pluralists to be one of the most important of the monistic errors. " The Commonwealth ", Mr Cole declares, " was made for men, and not men for the Commonwealth ".[1]

In order to answer this criticism, it is imperative to remember that Aristotle clearly distinguishes between the state as the end and the state as a means, between the ideally perfect polity and the practically best constitution. Thus, when Aristotle speaks of the priority of the state to the individual, the fact, namely, that no individual can be himself or attain his fullest development except by living as a member of the state, what he means is surely

[1] *Labour in the Commonwealth*, pp. 216-39 ; cf. *Social Theory*, pp. 31-32.

not this or that particular state, with its peculiar laws and constitution adapted more or less to its contingent needs, but the state as presupposed by the nature of the individual as a political being who, though independent of any actual political organization, cannot escape the fact that as such a being he is inevitably bound up with the *idea* of the state, and that consequently, he must be compelled to identify himself with *some* particular state, to which he happens to belong by birth or which he voluntarily adopts by choice.[1] Aristotle's inquiry into the practically best state, therefore, consists largely in an inquiry into political means, that is, into the laws and constitutions which are best suited to promote the individual good, so far as that good is realizable through organization. The state resulting from such a quest, which is necessarily im-

[1] Here we may conveniently call attention to the superficial contrast which the pluralists make between the state as a " compulsory association " and the group as a " voluntary association ". For truly speaking, the political state is just as " voluntary " as any non-political group is ; and, conversely, all groups are compulsory, if we think of them in more general terms. Thus, a voter in the City of Ithaca may not only freely change his residence and become a voter in Los Angeles, but even relinquish his citizenship in the United States and emigrate to any other country he chooses. The state is compulsory only in the sense that one must be a member of *some* state, and that, being a citizen of a state, he cannot freely leave that state without fulfilling his duties to it up to the time he resigns his citizenship. A criminal, e.g. cannot freely cross the boundaries of his country. On the other hand, the voluntariness of non-political organizations, particularly economic organizations, holds good only when these organizations remain *local* in their scope. As soon as they extend their sphere into nation-wide unions, or perhaps international unions, it is evident that no person belonging to any of these can freely resign his membership, as the pluralists think. The matter is especially clear if we conceive an economic system in which all the functions of production are integrated into one gigantic group. In this case, the economic group would be as compulsory as the political state, if not more so.

perfect and falls short of the ultimate ethical ideal of which the individual is capable, surely cannot be an end in itself, demanding unconditional sacrifice from its citizens.[1] For even the best of all existing constitutions, so Aristotle himself asserts, are merely perversions of the ideal state.[2] On the other hand, however, while the state as actually attained by men, or actually attainable by them, is merely a means, the state as a " pure instance ", which transcends the content of every actual state and which is coterminous with the limits of man's freedom, must surely be an end. This ideal state, by reason of its very perfection, is, of course, unrealizable at any given moment. But if we admit the inadequacy of actual political organization as the complete expression of freedom, we must also agree that the practically best state possesses no meaning except as an attempt to bring men a step nearer to the perfect state, that is, to the ideal system of human freedom. Moreover, the actual wills of men not being always consistent with their own truly free nature, the ethical state is not only the measure of all social institutions, but of the purposes and desires of the individuals themselves. This, we think, is the real meaning of the conception of the state as the end.

A question, however, may here be raised as to whether it is justifiable to postulate an ideal state simply by appealing to the social nature of man, as Aristotle does. For, as Mr Cole argues, while we may agree with Aristotle that man is social—that is to say, by reason of his natural sociality man cannot live outside of a political community—

[1] Cole, *Labour in the Commonwealth*, p. 39.
[2] *Politics*, iv, ch. 7, § 2 ; ch. 8, § 1.

it does not follow that social institutions can exhaust the complete nature of man.[1] We must, in other words, clearly distinguish the idea of the state as absolutely necessary from the idea of the state as absolutely inclusive, the proposition that men cannot live without society from the proposition that, living within it, men lose their identity as individual beings and translate all individual ends into the state-end. The Aristotelian "ideally best" state, therefore, cannot exist; for if it is interpreted to mean the perfection of social organization as a means to promote individual good, it is, by definition, impossible of realization; or, if it stands for an end in itself, it is a fraudulent assumption, unwarranted even by Aristotle's own premise of the social nature of man.

To this formidable objection Mr Cole himself has suggested a reply.[2] We should point out, however, that when Aristotle speaks of man as social or political, he evidently does not mean that sociality consists solely in organization, so that in order to be social, one must submit each and every one of his actions to the public regulation of the people, or request them to participate in its execution.

[1] Mr Cole says: "It is an abstraction to regard men solely as social creatures or solely as finding expression through the institutions, States, etc., of which they are members, ignoring their individuality which exists apart from, as well as in such institutions; and it is no less an abstraction to regard solely their individuality apart from institutions, ignoring its expression in and through institutions". *Labour in the Commonwealth*, p. 196.

[2] "A constantly growing measure of co-operation among men is no doubt the greatest social need of our day; but co-operation has its unorganized as well as its organized forms, and certainly the unorganized co-operation of men, based on a sheer feeling of community, is not less valuable than organized co-operation, which may or may not have this feeling of community behind it." *Social Theory*, p. 185.

Such an absurdity would have been too obvious for Aristotle to entertain. Sociality, for Aristotle, implies more than mere organization or group-activity; it is co-extensive with reason and identical with freedom. It demands organization for its most perfect form of expression [1], but embraces a sphere much wider than government, economic group, and all social institutions. Hence, just as individuality is not synonymous with subjective whimsicality, so is sociality never identical with collectivism; and, as merely two distinct aspects of the same ethical reason, sociality and individuality are not opposed to each other, as Mr. Cole seems to think. Indeed, it would be safe to assert that, on Aristotle's theory, man is *completely* social in so far as he is completely individual. So long as he acts in accordance with his true nature, namely, with the true good of man as man in mind, he qualifies himself for good citizenship in the ideal state, which, to that extent, possesses material existence. Such, then, is the meaning of the perfect state. It legislates only through reason and exists in reason; it tolerates no organization beyond "a government formed of the best men absolutely", in comparison with which all existing polities are perversions; and, lastly, by virtue of its perfection, of its intimate reflection of man's freedom, it cannot be reduced to a mere means without degrading freedom itself.

[1] Cf. Mr Cole's saying: "The freedom that ultimately matters is, above all, the freedom of the individual men and women. It is agreed that, if this freedom is to find perfect expression, it requires organization." *Labour in the Commonwealth*, p. 196.

That Aristotle is opposed to universal collectivism is sufficiently shown by his criticism of Plato's doctrine of the community of women and property.

Mr Cole's objection, therefore, is not altogether cogent. He fails to discern the substantial similarity of his views to that of Aristotle, because he does not clearly understand the essential continuity between the individual and social aspects of man, and because he tends to confound sociality with collective action. It is probably true that Aristotle himself is not sufficiently explicit here; whereas Hegel is often inclined to emphasize the supremacy of the actual state—a conclusion which is not logically implied in his theory at all.[1] In this way, then, Mr Cole offers us a wholesome antidote against social absolutism, so frequently resulting from a misapplication of the Hegelian state-theory. But, on the other hand, if, according to Mr Cole, the freedom of the individual can find its perfect expression only in organization, and if "the organization of freedom in society consists in securing two things—first, the best and most perfect relationship of institution to institution within the Commonwealth; and, secondly, the most perfect subordination of all institutions to the expression of the wills of the individuals whom they exist to express",[2] Mr Cole's pluralistic state would simply seem to be Aristotle's practically best state in its modern dress. Whatever difference may exist between Mr Cole's definition of the supreme good and that of Aristotle, we cannot fail to note the general similarity in their ethical approach to political

[1] Compare, however, this passage from his *Philosophy of Right*: "The state is the march of God in the world; its ground or cause is the power of reason realizing itself as will. When thinking of the idea of the state, we must not have in our mind any particular state, or particular institution, but must rather contemplate the Idea, this actual God, by itself." Dyde's translation, § 258, "addition".

[2] *Labour in the Commonwealth*, p. 209.

theory. Moreover, in spite of his objections to Aristotle, Mr Cole himself admits the reality of something like an ideal state (or community). For so far as he recognizes the social nature of man as capable of being objectively expressed in a functional value-system, he has indicated the possibility of an ideal state which serves not only negatively as a final limitation of the power of actual organizations, but positively as an end toward which the pluralistic state must constantly strive. And be it noted that the existence of this ideal state does not depend upon the subjective purposes of individual persons. For, as Mr. Cole himself shows, the purely subjective interpretation of the functional system can yield no more than a gratuitous assumption of the general good. The content of the functional system, therefore, transcends the content of actual wills. The Commonwealth is not made for men, for individual persons in their private capacity ; it is an end in itself, through the attainment of which alone can the complete freedom of the individual be realized.

One of the most valuable lessons which we learn from the pluralists is, then, that a concrete, workable theory of politics must build its foundation upon the solid rock of human nature, direct attention to all social relations, and recognize the ethical categories as the most fundamental of all political categories—fundamental in the sense of a final criterion by which the rights as well as the limitations of social power must be tested. The pluralists themselves, of course, do not seem to have emphasized this phase of their theory ; nor, indeed, are they willing explicity to admit the existence of a comprehensive ethical

community, which the pluralistic state definitely implies. Yet, all in all, it is not an exaggeration to say that pluralism is one of the most damaging criticisms of the narrowly "scientific" method of politics, which confines itself to a mere analysis of the state-process, and of the mechanistic method, which tries to envisage the political system as a factual, inevitable chain of social sequences. With a good deal of justice, therefore, the pluralists inveigh against Hobbes and scoff at Austin (they should decry M. Duguit, if our interpretation of his theory is correct). For real sovereignty must surely be much wider, more profound, and more satisfying than the oppressive "mortal God" of the *Leviathan*, or the jejune "human superior" of the *Jurisprudence*.

Unfortunately, however, misunderstanding touched with intellectual bias prevents the pluralists from seeing a real possibility of reconciliation with the monistic ethical school, which, truly speaking, is never monistic in the sense in which the pluralists employ that term. Most pluralists, we have seen, are individualists; and, as individualists, they naturally feel a certain degree of antagonism to the philosophers, who seemingly take delight in suppressing individuality. Yet the nineteenth century is far gone, and our present-day individualists cannot but follow the *Zeitgeist* and accept the truth by insisting that the individual, after all, is social—with the wily reservation that he is only partly so. This reservation, however, is altogether unnecessary. For if it is meant to serve as a precaution against universal collectivism, it can easily be shown that no philosopher or theorist has ever attempted to include all human activities or

relations within the narrow four corners of the organized institution, still less of the political institution. Or, if it is intended to indicate a real contrast between individual (i.e. private) actions and social actions, it would be pretty hard to see how the pluralists can avert the difficulty of defining precisely the respective spheres of these actions. Shall we follow J. S. Mill by defining private actions as those which affect the agent alone and no one else ? Surely, it must be admitted that actions of this sort are very few, and that those which do completely satisfy this description are hardly worth theorizing about at all. Shall we say, on the other hand, that private actions are those which, although affecting other persons, have not been offered by the agent to collective control ? In that case we must be prepared to admit that whatever a person does can never be rightfully questioned, even if it interferes with other people's actions, so long as that action is not voluntarily submitted to organized control.

Our last point is not intended to be an argument for compelling people to subject all their actions to public regulation ; this is undesirable, even though it could actually be done. We must not fail to point out, however, that if we admit the social nature of man, namely the fact that no one can live unto himself alone, but must always be in relationship with a number of persons, in whatever manner they may be associated, then individual freedom cannot consist in the complete " absence of force "[1] or in the

[1] Laski, *Grammar of Politics*, p. 33. There is a good deal of confusion here. For, if we regard the subjective feeling of non-restraint as the ultimate criterion of freedom, it is very difficult to see on what justifiable ground can I convince myself that " I *ought* to obey " the law of school

absence of external social restraints imposed upon the individual, modifying or limiting his will. For, after all, the sociality of man consists not merely in a sentimental craving for fellowship, but in an intelligence which perceives the wisdom of the mutual subordination of wills, not arbitrarily, but reasonably. To separate individuality from sociality, to oppose freedom to restraint, is to lead our theory into an insoluble contradiction, the contradiction, namely, of constructing a social order out of a sand-heap of sovereign individuals.[1]

There is one more difficulty which we must face. Mr Laski points out, rightly, we think, that while the state, as government, should exercise only a relative power, it always tends to regard its actions as representative of eternal justice, and hence above all reproach; and that, on the other hand, while state-sovereignty, as defined by the jurists, possesses merely a legal supremacy, the philo-

attendance, if I disapprove of that law. From the standpoint of the community, I must be compelled to obey it, since that law presumably represents the general desire of the majority or the dominant element. But from my view-point, I should not obey it, no matter how overwhelming the public opinion which stands behind it may be; because, on Mr Laski's own showing, whatever comes from external force, is opposed to my freedom The argument that maintenance of social order requires my obedience would not convince me, because my conscience may definitely tell me that social order itself is not necessarily a good, and that the particular social order which imposes force upon me is not worth preserving. Furthermore, we cannot make any distinction between a law that infringes upon my trivial freedom and a law that infringes upon my essential freedom. For, accepting Mr Laski's subjectivist position, we should regard the bootlegger who defies the prohibition law as just a noble champion of freedom (in so far as he feels that law to be wrong) as Luther, who defied the Church at Worms. Thus, the only individual who is really free is one who disobeys the law every time he finds his will at variance with it.

[1] An individualistic theory of politics, in the real sense, is a contradiction in terms.

sophers have been eager to confuse legality with morality and to exalt sovereignty, far above legal supremacy, into the lofty region of ethical absoluteness.[1] Mr. Laski's difficulty here, then, is this, that granting the existence of a community of ethical ideals on the one hand, and the need of a political state as its instrument of expression on the other, we have no assurance whatever that this instrument will not pervert the ethical end by unintentionally misusing its own power. For the sake of safety and protection, therefore, we must constantly seek not only to limit the actual power of the state by pointing out its relativity, but to formulate a definite system of rights whereby the individual, as individual, can get his claims against the authority of the state.

This, of course, is a persistent problem in politics which

[1] "Practically", Mr Laski says, "it seems to me undeniable that a position of legal pre-eminence results (however unjustifiably) in the tacit assumption of moral superiority. . . . The history of the conflict between churches and the state, or between trade unions and the state, is very largely the history of the assumption of the latter of a moral not less than a legal right to obedience. For the state has to act through persons; and those who are its guests at a given moment are always convinced that they are acting in the name of eternal justice." *Pol. Sc. Qtly.*, 40 : 620.

It should be added, however, that the church and trade unions are no less extravagant in their claim to moral absoluteness than the state. We must remember that the old doctrine of divine right of kings was a counter-claim against the divine right of the popes, and that the central argument of industrial-economic groups against the state are generally such principles as natural rights, justice, freedom, etc., which, in the minds of the union-members are the first principles of all democratic government. Certain persons, in fact, seem to think that only the complete realization of the industrial claim can bring about the realization of universal freedom. In spite of extravagance of both sides, however, these controversies help to establish the truth that politics and ethics are inseparably bound together and that, consequently, no far-reaching political movement can ever be intelligently understood unless we go beneath the superficial fact of the clashing of opposing powers and discover its essentially spiritual motives.

admits of no short and ready answer. Two points, however, may here be suggested. In the first place, we may admit that the persons who, at a given moment, exercise actual political power, are likely to be mistaken concerning the real content of eternal justice, as Mr Laski shows. This admission, however, should not blind us to the fact that the individual, as individual, is also likely to be mistaken concerning it, and perhaps even more so. Evidently, in order to be really effective, Mr Laski's system of rights must operate either through a majority voice which happens to agree upon a certain notion of justice, or directly through the individual whose subjective conscience alone is sufficient to suspend any objectionable governmental action. In the latter case, it is obvious that since individual conceptions of the good necessarily differ, no state-action is justifiable unless it can secure the unanimous approval of all citizens. In the former case, we seem to avoid our difficulty by transferring the right of interpretation from the state to the majority of citizens. Sober second thought, however, will convince us that since an effective majority-decision must ultimately be carried out by the state, as Mr Laski himself insists, this decision itself becomes state-action, which, from the viewpoint of the dissenting minority, is again a monstrous misinterpretation of the content of eternal justice. The real difficulty here, we think, does not lie in the necessity or expediency of majority-decision, but in Mr Laski's fundamental individualistic bias which unconsciously colours his thought and makes him feel that the judgment of the individual as such is somehow more authoritative and less fallible than the judgment of

the state. To do Mr. Laski justice, however, we must point out, in the second place, that he not only shrinks from the logical conclusion of his individualism, but insists that political force is justifiable when force is applied " in those directions only where the common sense of society is on the side of the type of conduct it seeks to compel ".[1] In other words, what Mr Laski emphasizes here is this : since the state embodies the instrument (in fact, the sole instrument) through which the general ideal of the community as a whole is to be expressed, its authority must be regarded as superior to the claim of the individual conscience, so far, indeed, as this authority is used to communicate the objectified social ideal to all individuals—by coercive force, if necessary. Now, if this represents Mr Laski's real conception of state-authority, it is rather difficult to see to what appreciable extent he is more liberal than the philosophers who permit the state to act as the tangible instrument of the ethical ideal—or, as Mr Laski says, in the name of eternal justice. The only adequate way to escape this situation is not a system of rights but the abolition of the state itself.

Indeed, we fear that Mr Laski's painstaking efforts to point out the limitations of the state and definitely to limit its power are largely wasted. He is not unlike the sculptor who fears that a slip of his chisel may do serious damage to his object, and blunts its edge in order that, in case of mishap, it may do no practical hurt to his æsthetic ideal. Mr Laski fails to see that if the state is the political chisel by which the intangible ideal of the community is to be

[1] *Grammar of Politics*, p. 33.

wrought into tangible shape, the sensible thing for us to do is, surely, not to dull our chisel, but to sharpen it so carefully and to such a high degree of fineness that it will respond sympathetically to the slightest touch of the inspired hand. The state, Mr Laski complains, must act through persons who, being only human, are liable to err; and, therefore, he concludes, the power of the state must be curbed, so that every individual shall have the right to set his conscience against state-authority. Here, he requests us to note, is the death-blow to sovereignty and the annihilation of the monistic state. To this, however, we cannot agree. It is true that the state acts through its agents; but, surely, the errors of its agents cannot be charged to the state itself. Moreover, if we distinguish the state from its agents, it is clear that we cannot decry the true sovereignty of the former simply because the latter often misapply the sovereign power. Admitting that the state is the instrument for expressing the community-ideal, what good reason is there for saying: the state cannot do this or that, because its officials are frequently incompetent? Why should we overlook the fact that they are *sometimes* competent, and the possibility that we cannot always substitute the better for the worse —namely, through consistent political education and an improved system of public service? Why, in other words, should we conceive our state according to the low standard of incompetent officials, knowing that in the hands of wise rulers, government is capable of unlimited service? Furthermore, when we inquire into the cause of state-incompetence, we almost invariably discover that bad public servants in a

democracy are not employed by the state itself, but are placed in office by the individual voters themselves—including the voters who are politically ambitious but ignorant or unscrupulous, those who are intellectually superior but politically apathetic, as well as the large mass of those who possess neither intelligence nor political zeal. Our urgent political need would seem to be the limitation of the individual rather than of the state, the limitation, namely, of individual ignorance, unprincipled ambition, and indifferentism. For it is futile to protect individual conscience against state-authority when the individual has no conscience to consult; and it is just as dangerous to assume individual infallibility as to assume state infallibility, even though we grant, with Mr Laski, that the state is merely government in the hands of a few. Indeed, Mr Laski's political theory, like all individualistic theories, is predominantly a nay-saying philosophy. If it does not exactly amount to a confession of the failure of all democratic government, it at least has missed the positive problem of democratic organization. It fails to see that the ideal of freedom demands *good* government, and that a good government can be realized only when the best men are entrusted with unhampered power, and when an enlightened citizenry place a sincere confidence in their government. That such a government is not always in existence is admitted. But we have more chance of securing it by positively striving toward it than by clinging to the old doctrine of limitation.

Our duty here, however, is not to dogmatize. We do not wish to assert that this or that theory must be accepted,

but rather to point out that the acceptance of certain fundamental premises implies certain general logical conclusions. We have endeavoured to show that if we admit that the individual is social, we must also admit that he is completely social, and that whatever unsocial *residuum* is left over from our analysis can hardly come under the proper sphere of political theory at all; that if we recognize the possibility of a community of good, whatever be the content of that good, we cannot avoid serious contradictions unless we also recognize, as in fact all pluralists do recognize, the necessity of a single instrument (whatever name we prefer to give to it) which will somehow bring the various aspects of that good into a systematic and harmonious development; that, if we cogently argue for the limitation of the political state on the ground of the existence of a community larger and more ultimate than it, we should not fail to see that the sovereignty which we thus rightly deny to the state must inevitably be attributed to that community, if our community is not to be a passive ground for the war of conflicting interests; and that, political theory being much wider than a mere theory of government, covering, as the pluralists show, the whole range of human social relations, the "pluralistic state" is not primarily an apothesis of diversity, but an embodiment of concrete unity—that kind of unity, of social comprehensiveness, which is thoroughly adequate to the individual's many-sided freedom. This, we say, represents the last meeting point of political extremes: a decisive reaction against political scientism and a revival of the ethical-teleological standpoint.

CHAPTER X

GENERAL CONCLUSIONS

In bringing this prolonged study to a close, we fear that our achievement has fallen far short of our ideal, and that the promise to give a complete and critical account of the pluralistic theory of the state remains only partially fulfilled. But however we may have fared in our enterprise, we hope that our discussions have at least shown the vital significance of this new departure in political thought. The fact that we have maintained a constantly critical attitude toward it throughout does not imply that we are definitely opposed to its general aim; nor, indeed, should the many difficulties and inconsistencies which we have suggested from time to time be taken as a final condemnation of the entire pluralistic thesis. The end of constructive criticism is to remove the husk and not to destroy the grain, and the real worth of any theory must be measured by its merits—no matter how numerous its defects may be. And, fortunately, in the case of pluralism the merits seem to turn the scale in its favour. Its emphasis upon individual freedom; its introduction of the group into political thought, thus pointing the way to a more concrete method of social organization than that hitherto generally employed; its insistence upon a truly comprehensive view of the political process, which is to include not only govern-

ment and law, but all social relations between men as many-sided moral beings; and, finally, its wholesome reaction against the paternalism and absolutism of the political state, as well as its warning against the sovereignty of any partial institution—all these possess a significance which no impartial student can fail to notice.

The central contribution of pluralism, however, becomes fully evident only when we place it in the context of the entire history of Western political thought, which itself may be viewed as a development from abstract monism, through abstract pluralism, and finally to concrete monism. The present pluralism marks the opening of the last stage of this evolution.

Perhaps we cannot rightly say that either Plato or Aristotle is abstractly monistic in his political theory, especially when we remember that the Platonic Republic is essentially a functional democracy in which the class-element forms the very basis of political organization. This functional idea, indeed, is largely retained by Aristotle, who even criticizes Plato for having conceived the state too monistically. The state, Aristotle says, is a plurality; it is "not made up of only so many men, but of different kinds of men; for similars do not constitute a state".[1] In spite of this sound theoretical foundation, however, the pluralistic element of their thought was so determined by circumstances as not to take any articulate form. At a time when the Greek democracy was rapidly decaying,

[1] *Politics*, ii, ch. 2, § 3. It should be noted also that Aristotle recognizes the existence of other communities than the state or political community. *Ibid.*, i, ch. 1, § 1.

neither of our philosophers could have laid any emphasis upon the partial aspects of the state or advocated any political scheme which called for the organization of the classes in the *polis* into autonomous groups without hastening the catastrophe of its final disruption. On the other hand, even the normal conditions of Greek city life were not particularly stimulating to the pluralistic imagination ; for the Athenian polity, after all, was a small community in which life and politics were incomparably simple and unilinear. The attention of the citizen was chiefly engaged in the affairs of the state ; the absence of rival organizations made the political system virtually all-inclusive and absolute. Greek political theory, in this way, represents a monism in which the pluralistic elements are only implicitly contained.

In the Roman world, with the Stoic ideal of a universal empire under one government, the abstract idea of unity had sought its realization, but, for historical and other reasons, had failed. With the Middle Ages, therefore, came the bankruptcy of abstract monism : Western society disintegrated into a thoroughly pluralistic order. In the first place, the political system itself, unable to withstand the terrific pressure of continuous invasions and military disorder, gave way to the feudal system, with its vast hierarchy of quasi-autonomous kings and lords. The state, in the proper sense of the term, virtually vanished ; sovereignty there was none, because the only effective political bond was not public law, but a diversity of private laws, varying in their content according to the usage of different localities and possessing no other guar-

rantee of observance than the personal valour of the lord and the voluntary submission of his vassals. In the second place, with the growth of Christianity, a new social organization was created, namely, the church, which benevolently sheltered Western civilization during the dark ages of the barbarian invasion, but which later caused no small measure of discord in its perennial controversy with the state. Thirdly, with the gradual development of craft-industry and sea-commerce, a new social class came into being which, perceiving the need of organization and mutual protection, was crystallized into the guild system. The mediæval dualism of the church and the state was thus converted into a tripartite functional order, a division of spheres between politics, economics, and religion, each with its own independent system of law and government, each containing autonomies within its own organization.

With such a background, it is natural that mediæval political theory offers no doctrines of the sovereign state. Papal-imperialist disputes occupied most of the time and attention of political writers, and the practical motives behind these prevented them from arriving at a satisfactory settlement of their differences. We must not think, however, that no progress was made by these writers. The recognition of the distinction between the two powers points to a new line of thought which was unknown to the ancients—the tendency, namely, to regard the political organization as not inclusive of all social relations, and to admit the existence of a religious community independent of the state. The protagonists of the imperialist cause,

therefore, are by no means political absolutists in the modern sense of the phrase. The arguments they employed to establish the independent authority of secular organization were fundamentally religious or otherwise trans-legal; and even the doctrine of the divine right of kings, which supporters of Philip the Fair of France advanced against the divine right of the Pope, contains no suggestion of anything like the conception of a sovereign state. In fact, while the pro-papal writers strove to identify the classical all-embracing city-state with the City of God or the universal kingdom of Christian believers —whose end the temporal power was designed to served— the imperialists in general tacitly limited the claims of the state to temporal affairs, leaving the church free to minister to man's spiritual needs.[1]

Modern society is actually as much a pluralistic entity as the mediæval. It is true, the modern age is marked by the resolution of the quasi-chaotic pluralities of the feudal order into unities; but this resolution immediately creates a new pluralistic order with elements greater in scope and internal power, more recalcitrant to efforts of co-relation

[1] This is delightfully illustrated by the quarrel between Pope Boniface and King Phillip of France. To the former's arrogant dictum: "We wish you to understand that you are subject to us in spirituals and in temporals", the king contemptuously retorted: "Let your most distinguished fatuousness be assured that in temporals we are subject to none". See Gieseler, *A Text Book of Church History* (Davidson), ii, p. 348. Even Dante, the most brilliant imperialist, does not deem it possible to include all human affairs in the political organization, as his well-known definition of the temporal monarchy shows. Marsiglio, however, gives the Emperor the right to summon the council of Christian believers, which controls the administrative matters of the church, although the essential function of the church as promotor of faith is left to the Pope.

than before. The final separation of the church and the state, indeed, puts an end to all pretensions of a sovereign church, the church, namely, which claimed unlimited control over all human affairs, directly and indirectly. But with the consolidation of feudalism into the modern secular state, political organization achieved its distinction as a self-sufficient social force, undreamed of by the mediæval imperialists. The mediæval guild system, on the other hand, gave way to the modern labour-industrial organization, which factory-manufacture and international commerce have developed into a self-conscious power, and which inevitably becomes a formidable and often bitter rival to the political organization. Political-economic disputes, consequently, occupy as large a place in modern theory as the political-religious controversy had occupied the chief attention of mediæval publicists.

Unfortunately, our modern disputants have not been a whit better than the medieval controversialists; for between the political theorists and the economists, the struggle is not a struggle for balance, but for mutual absorption. Whether history exactly repeats itself or not, we can at least discover a general similarity in scheme between the mediæval and modern social structure: a dualism of two gigantic powers. The modern state which claims to control economic relations can be compared with the mediæval church, which attempted to dominate the state; whereas the industrial system occupies a position not unlike that which the mediæval political organization had occupied, a position of constant protest and counter-claim. It is difficult to determine precisely how much

blame should be placed upon the so-called monistic writers who constructed the doctrine of the sovereign state. Neither Bodin nor Hobbes lived to see the coming of the industrial revolution and the far-reaching consequences which it brought about. Rousseau was too much concerned with his desire to safeguard the general will to understand the inherent strength of the corporations which he undertook to condemn. Austin was more of a legal technician than a real political theorist, and his conception of sovereignty, as such, did not pretend to deal with the relationship between the economic and political process in the concrete. Even the liberal tendency of Benthamite legislation in England indirectly intensified the gravity of the situation, since the paternalistic reaction which it called forth seems to have contributed not a little in making the arguments of the industrial class more attractive and more appealing. Indeed, liberalism, even in its most extreme form, constitutes no adequate answer to the claims of the ultra-socialists—for what the true socialists want is not this or that kind of state or government, but no political class to rule the economic class at all. In this way, political-economic disputes lead modern theory to a crisis of abstract pluralism, the pluralism of unco-ordinated sovereign social powers.

It must not be thought, however, that the real solution of the problem of industrial freedom lies in the doctrine of the separation of powers, which has quite satisfactorily solved the problem of religious freedom. The simple reason is that, owing to the peculiar nature of these functions, we cannot separate economics from politics, as we

can separate religion from politics—a truth which we have tried to show in our previous discussions. Nor, on the other hand, can we rely too much on the efficacy of industrial self-government as such, which is merely the doctrine of the separation of powers in disguise. The only way to industrial freedom is not to put as much independent power into the hands of the economic class as we wish, but to give it a proper share of social responsibility, that is, of the government of the community in general—not to make the economic group virtually autonomous, but to make it positively co-operative. We must, in other words, enfranchise the entire economic class. For, by allowing it to participate in the general government of the community, the economic class is brought into immediate contact with the general aim of the community ; this is the only method by which the economic class can be trained to see clearly the connection of their own good with that of other classes and of the community. Furthermore, being thus placed in a socially responsible position, the economic class can no longer maintain its traditional attitude of irresponsibility, of setting itself against other classes and society. The strike will no longer be the necessary or even an effective weapon with which to defend industrial claims. The economic organization cannot strike against the government, because it is itself a part of the government ; the producer-class will not strike against the employer-class, because with the acquisition of a proper share of political rights the producers acquire a much more effective and less hazardous method of dealing with the employers than the strike. In fact, it is not extravagant to hope that the

harmonious attachment of the economic function to the political system will eventually educate the members of all partial groups to responsible citizenship, and that the enlightenment of the consciousness of one class by the consciousness of the general community will result in a truly democratic system of social organization. Industrial freedom, in short, is possible only through social freedom.

One " monistic " writer, at least, seems to have anticipated our present idea of the solution of the problem of the economic political struggle. This is Hegel, who severely criticizes the unwisdom of French centralization, who points out the fallacy of universal suffrage as the final solution of the problem of democracy, and who advocates the representation of the corporations in the national assembly as a method of co-ordinating the various natural forces of the community. Not, indeed, that Hegel was willing to grant the arguments of the economic classes in full; nor does his suggestion represent a complete solution of our problem. Yet, had not the immediate followers of his school split into two extreme wings, the one championing abstract political monism, the other abstract economic monism, and had not the general meaning of his political system been so commonly misconstrued, it is probable that something like the present pluralism might have been worked out by developing the Hegelian conception of a civic community as distinct from the state as government—both together constitute the ethical community—long before Mr Laski and Mr Cole announced their " Copernican revolution " in political theory.

Perhaps we cannot justly attribute political pluralism

to Hegel, in the sense in which we now understand it. Perhaps we should agree with Sydney Smith that " that man is not the discoverer who first says the thing, but he who says it so long, and so loud, and so clearly, that he compels mankind to hear him ". Or perhaps Hegel's thought was too far in advance of his own time, so much so that it failed to secure general acceptance in spite of the essential truth which it contains. Are our present pluralists too far ahead of their time ? Can they make their theory heard by mankind ? Such questions the future alone can answer. Perhaps the time is nearly ripe for " pluralism ". At present, however, the pluralists themselves are still uncertain of their own meaning : they talk of demolishing the monistic state to make room for the pluralistic state, of banishing sovereignty from political thought. They fail to see that the commonwealth resulting from the successful co-ordination of all social forces will ultimately be a comprehensive, all-satisfying unity, which certain historical writers have endeavoured to define. In many cases, the spectre of abstract individualism is still haunting their minds, causing endless confusion and errors. Such difficulties, however, are not inherent in the pluralistic theory as such. The soundness of its general spirit will in time remove them, and then we shall realize a community with splendour and sovereign force greater than any commonwealth that has ever been sustained by men.

APPENDIX I

SOME MONISTIC DEFINITIONS OF THE STATE

ARISTOTLE : The state or political community, which is the highest of all communities, and which embraces all the rest, aims, and in a greater degree than any other, at the highest good. *Politics* (Jowett), i, ch. 1, § 1.

AQUINAS : As the man is a part of the household, so a household is a part of the state, and the state is a perfect community. *Summa Theologica*, ii, 1, q. 90, art. 3, rep. 3.

ÆGIDIUS : The state is the highest community (*principalis summa communitas*). *Æg. Rom.*, iii, 2, ch. 1, quoted by Gierke.

DANTE : Temporal monarchy, then, or, as men call it, the empire, is the government of one prince above all men in time, or in those things and over those things which are measured by time. *De monarchia* (Church) i, ch. 2.

MARSIGLIO : The state, according to Aristotle, is a perfect community, composing every element of sufficiency in itself (perfecta communitas omnem habens terminum per se sufficientiæ) and instituted for the sake not only of living, but of living well. *Defensor Pacis*, i, ch. 4.

BODIN : A state is an association of families and their common possessions, governed by a supreme power, and by reason. *De republica*, i, ch. 1.

GROTIUS : The state is a perfect association of free men, united for the sake of enjoying the benefits of law and their common advantage. *De jure belli ac pacis* (Whewell) i, ch. 1, 14.

HOBBES : [The Commonwealth] is one person, of whose acts a great multitude, by mutual covenants one with another, have made themselves every one the author, to the end he may use the strength and means of them all, as he shall think expedient, for their peace and common defence. *Leviathan*, ii, ch. 17.

SPINOZA : Under every dominion the state is said to be civil ; but the entire body subject to a dominion is called a commonwealth, and the general business of the dominion, subject to the direction of him that holds it, has the name of affairs of state. Next we call men citizens, as far as they enjoy by the civil law all the advantages of the commonwealth, and the subjects, as far as they are bound to obey its ordinances or laws. *Political Treatise* (Elwes), ch. 3, § 1.

LOCKE : Those who are united into one body, and have a common established law and judicature to appeal to, with authority to decide controversies between them and punish offenders, are in civil society with one another. *Treatise*, ii, 87.

ROUSSEAU : At once, in place of the individual personality of each contracting party, this act of association creates a moral and collective body, composed of as many members as the assembly contains votes, and receiving from this act its unity, its common identity, its life and will. This public person, so formed by the union of all other persons, formerly took the name of *city*, and now takes that of *republic* or *body politic* ; it is called by its members *State* when passive, *Sovereign* when active, and *power* when compared with others like itself. *Social Contract* (Cole) i, ch. 6.

HEGEL : The state as a completed reality is the ethical whole and the actualization of freedom. *Philosophy of Right* (Dyde) § 258, "*addition.*" The state, which is the nation's spirit, is the law which permeates all its relations, ethical observances, and the consciousness of the individual. *Ibid.*, § 274.

BENTHAM : When a number of persons (whom we may style subjects) are supposed to be in the *habit* of paying *obedience* to a person, or an assembly or persons, of a known and certain description (whom we may call governor or governors) such persons altogether (subjects and governors) are said to be in a state of *Political Society*. *Fragment on Government*, ch. 1.

APPENDIX II

LEGAL PLURALISM IN THE MIDDLE AGES

The conditions of mediæval society seem to have favoured not unity but diversity—even in the realm of law, which, as Dr. Carlyle tells us, is the very foundation of its organization (*History of Medieval Political Theory*, iii, pp. 32 ff.). During the eighth century, the old empire of Charles the Great had already become " a country of what the Germans call *Sonderrecht* ; each little district had its own special law. For this was just the epoch of feudalism, and the political unit was no longer the clan, or the people, but the fief, the district, under the control of a *seigneur* or lord," who was the final wielder of legal power (Jenks, *Law and Politics in the Middle Ages*, pp. 22 ff.).

Mediæval legal decentralization, however, did not stop with territorial divisions ; for side by side with the plurality of secular authorities, there existed a system of canon law supported by an independent ecclesiastical authority. The disappearance of the emperors from Rome and the schism between Eastern and Western Christianity had left the popes in the Western Church in a commanding position which was beyond any contest. Consequently, from the ninth century to the close of the Middle Ages, canon law, as promulgated by the ecclesiastical authority, had so indisputably established itself that " not the most autocratic monarch of Western Europe, not the most secular of lawyers would have dreamed of denying its binding force within its own proper sphere. It had its own tribunals, its own practioners, its own procedure ; it was a very real and active force in men's lives. And yet, it would puzzle an Austinian jurist to bring it within his definition of law. The State did not make it ; the State did not enforce it " (Jenks, *op. cit.*, p. 29 ; cf. Maitland, *Collected Papers*, iii, pp. 65-77). Moreover, with the existence of a duality of laws came also the idea of the dual capacity of the individual. Dr. Carlyle informs us that " Irnerius clearly recognizes two classes of persons—the one consisting of those over whom the bishop has full jurisdiction, and the other class, the laity, over whom, in secular matters, the bishop has no regular jurisdiction, except at their own desire " (*Op. cit.*, ii, p. 81).

Besides feudal and canon law, there existed a third legal system, which was applied to commercial relations. Not long after the close of the eleventh century, the usages of the merchants were crystallized into a cosmopolitan law, which was often at variance with the principles of the local law, but actually binding in mercantile relations and effectively

enforced by tribunals of world-wide prominence, such as the courts of the Hanseatic League.

In the Middle Ages, then, especially from the tenth to the thirteenth century, there was a three-fold division of law: civil, religious, and commercial. And within the civil system itself, there existed a minute territorial decentralization. Such a state of affairs, however, was not long to continue. With the passing of the feudal age, Western society witnessed the back-swing of the political pendulum from diversity to legal unification. In fact, in England, this process had begun long before the close of the Middle Age. For the effect of the Norman conquest in the eleventh century upon law was precisely the gradual conversion of the different local laws into a national system, a *lex terrae*. (See Anson, *Law and Custom of the Constitution*, i, pp. 13 ff.; Jenks, *op. cit.*, pp. 35 ff.). The meaning of the Common Law, then, was simply this, that it was the one law common to all England. There was, therefore, no longer to be one law for the Mercians, one for the West Saxons, another for the Danes, not even a law for the English, and a law for the Normans, but a universal legal system for all the peoples of the land. Furthermore, when Edward I came to the throne, he "created the most effective law-making machinery in the Teutonic world of to-day," namely, the parliament. Even canon law finally lost its sovereign force when, after the Reformation, the clergy themselves were placed under the jurisdiction of Parliament.

Even in Germany the development of legal monism is just as perfect as in England. It was the *corpus juris civilis* of Justinian, expanded and systematized by the Glossators and Commentators of Italy, that became, through the university writers and learned doctors, the common law of the German Empire. This was the Roman "Reception," which finally overcame the "*Partikularismus*" in German jurisprudence, and against which Dr. Gierke later raised his Germanist protest. The completion of the process of unification, however, did not appear until 1495, when the *Reichskammergericht*, the supreme court of the empire, was established. (See Jenks, *op. cit.*, pp. 51 ff.; Maitland, *op. cit.*, pp. 432-9). And, finally, a similar centripetal movement was observed in the French legal system, although it did not take place until as late as the beginning of the nineteenth century. (See Sir Courtney Ilbert, Proceedings of the British Academy, 1903, pp. 255 ff.).

APPENDIX III

CLASS REPRESENTATION IN THE EUROPEAN CONSTITUTIONS

The pluralistic criticism directed against "universal representation" in the traditional assembly seems to apply more justly to the present English and American constitutions than any other. In France, especially, something like a class representation existed as early as 1212; and in 1789, the Estate General included three distinct orders, clergy, nobility and the third estate. The former two orders, however, feared that they might be overwhelmed by the numerical strength of the third estate, and insisted upon taking not the individual deputies, but the orders, as units of the voting system. In this way, the French national assembly may be regarded as a scheme of class representation in which there were as many votes as there were classes. In Sweden, a class representative system consisting of four orders—clergy, nobility, burghers, and peasants—each with its own separate house, existed until 1866, when the ordinary bicameral system took its place. Even in the English parliament the idea of class representation was quite prominent in its early days of development. "The idea of a constitution," Stubbs says, "in which each class of society should, as soon as it was fitted for the trust, be admitted to a share of power and control, and in which national action should be determined by the balance maintained between the forces thus combined, never perhaps presented itself to the mind of any mediæval politician." But the English political genius discovered this scheme of the "assembly of estates," "an organised collection, made by representation or otherwise, of the several orders, states or conditions of men, who are recognized as possessing political power," and employed it side by side with a system of "local representation." (See his *Constitutional History*, ii, pp. 166 ff.; compare, however, Pollard, *The Evolution of Parliament*, ch. 4, "The Myth of the Three Estates.")

It may be interesting to note that the idea of democratic government on the basis of class-interest was discovered in early Greece by the philosopher, Empedocles, who flourished 495-435. Diogenes Laertius says: "But afterwards Empedocles abolished the assembly of a thousand, and established a council in which the magistrates were to hold offices for three years, on such a footing that it should consist not only of rich men, but of those who were favourers of the interests of the people." (*Lives and Opinions*, Eng. trans. by Yonge, viii, "Empedocles," § 9.)

APPENDIX IV

CORPORATIONS IN FRANCE AND IN ENGLAND

It is doubtless true that under the *régime* of centralization and political absolutism, as the pluralists point out, the tendency has been to suppress all forms of extra-political associations which exist in the national community. As early as 1755 Rousseau had already, in his *Discourse on Political Economy* (Cole's translation, pp. 253-4), cautioned statesmen against the inherent dangers of permitting smaller groups to develop within the state. Whether it was due to his direct influence or to some other cause, the French government considered it necessary, hardly two decades after the death of Rousseau, to issue a decree legally abolishing all associations, irrespective of their nature and merit. The wording of this decree is interesting:

> L'Assemblée nationale, considerant qu'un Etat vraiment libre ne doit suffrir dans son séin aucune corporation, pas même celles qui, vouées a l'enseignement public, ont bien méritée de la patrie . . . décrète ce qui suit:—
>
> *Art. premier.* Les corporations connues en France sous le nom de congrégations séculières, ecclésiastiques, . . . et généralement toutes les corporations religieuses et congrégations séculières d'hommes et de femmes ecclésiastiques ou laïques . . . sont éteintes et suprimées à datur du jour de la publication du present décret. (*Procés-Verbaux du comité d'instruction publique*, 1791-1792. See Carr, *Laws of Corporations*, p. 167).

Even academic and literary societies, harmless although they may have been, suffered the same fate with economic and industrial organizations by a new abolition law in 1793. In fact, this policy of persistent suppression was not definitely abandoned until 1884, when the *loi du Mars* legalized all professional and economic associations.

While associations enjoyed a much greater share of actual tolerance in England, their treatment at the hands of theorists was, in many notable cases, extremely severe. Pluralists can never quite forgive Hobbes for his unpleasant comparison of groups to worms which exist in the entrails of a natural man. (*Leviathan*, ii, ch. 29). Richard of Devizes's description of the odious character of the *communia* is no less ungenerous: Communia est tumor plebis, timor regni, tepor sacerdotii. (Stubbs, *Selected Charters*, p. 245). And when Coke declares that "a corporation has no soul," he is simply expressing a prevalent sentiment against the corporation in more polite terms.

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Under SOURCES are listed writings of the pluralists. Under REFERENCES are listed expositions and criticisms of the pluralistic theory and other books or articles which have been found helpful. Works to which casual reference is made in the text are not here enumerated. The SUPPLEMENTARY LIST contains works of the more important monistic writers. No attempt is made at exhaustiveness.

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